

GUATEMALA'S MARKET-LED AGRARIAN REFORM: A FAILURE IN ITS OWN TERMS

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Abstract

Inequitable land ownership has been, and continues to be, an enormous problem confronting Guatemala. Since it was first perceived to impede ideals and conceptions of progress, the ways in which land concentration has been problematized have evolved and expanded to include a variety of concerns. Consequentially, a variety of attempts have been made throughout Guatemala's history to distribute land more equitably. One of the most recent attempts has been through the implementation of a Market-Led Agrarian Reform (MLAR). This model of agrarian reform emerged in the 1980s out of criticisms of previous, state-led reforms and the growing neo-liberal rationale that resources are most efficiently and peacefully, distributed through market forces. Since the 1990s, the MLAR has gained prominence and has been widely implemented with the support of the World Bank (WB) in countries such as Brazil, Philippines, Colombia, and Guatemala. Although the inadequacy of the MLAR model and its objectives is well-documented, it is less clear to what extent the model has been able to achieve its own goals, however limited they may be. The following examines the outcomes of Guatemala's MLAR in light of its justification and objectives and argues that the MLAR has largely failed in its own terms. Instead of improving access to land and alleviating poverty, the reform has resulted in massive beneficiary indebtedness, increased poverty, and the re-concentration of land.

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Abbreviations and Acronyms

ASAZGUA	Sugar Growers' Association of Guatemala (<i>Asociación de Azucareros de Guatemala</i>)
ASC	Assembly of Civil Society (<i>Asamblea de la Sociedad Civil</i>)
CACIF	Coordinating Committee of Agricultural, Industrial and Financial Associations (<i>Comité de Asociaciones Agrícolas, Comerciales, Industriales y Financieras</i>)
CEH	Commission for Historical Clarification (<i>Comisión para el Esclarecimiento Histórico</i>)
CONGCOOP	The Coordination of NGOs and Cooperatives (<i>Coordinación de ONG y Cooperativas</i>)
CONTIERRA	Presidential Commission for the Resolution of Land Conflicts (<i>Comisión Presidencial para la Resolución de Conflictos de Tierra</i>)
COPMAGUA	The Coordination of Organizations of Mayan Peoples (<i>La Coordinación de Organizaciones del Pueblo Maya de Guatemala</i>)
CNOC	Coordination of Peasant Organizations (<i>Coordinadora Nacional de Organizaciones Campesinas de Guatemala</i>)
CSO	Civil Society Organization (<i>Organización de la Sociedad Civil</i>)
CUC	Peasant Unity Community (<i>Comité de Unidad Campesina</i>)
DR-CAFTA	Dominican Republic—Central America Free Trade Agreement (<i>Tratado de Libre Comercio entre República Dominicana, Centroamérica y Estados Unidos de América</i>)
FAO	Food and Agriculture Organization of the United Nations (<i>Organización de las Naciones Unidas para la Alimentación y la Agricultura</i>)
FONTIERRAS	Land Fund (<i>Fondo de Tierras</i>)
GDP	Gross Domestic Product (<i>Producto Interno Bruto</i>)
GoG	Government of Guatemala (<i>Gobierno de Guatemala</i>)
GREPALMA	Guatemalan Palm Producers Association (<i>Gremial de Palmicultores de Guatemala</i>)

IBRD	International Bank for Reconstruction and Development (<i>El Banco Internacional de Reconstrucción y Fomento</i>)
IDA	International Development Association (<i>La Asociación Internacional de Fomento</i>)
IEG	Independent Evaluation Group (<i>El Grupo de Evaluación Independiente</i>)
IFI	International Finance Institutions (<i>Institución Financiera Internacional</i>)
ILO	International Labour Organization (<i>La Oficina Internacional del Trabajo</i>)
IMF	International Monetary Fund (<i>Fondo Monetario Internacional</i>)
INTA	Institute for Agrarian Transformation (<i>Instituto de Transformación Agraria</i>)
MINUGUA	United Nations Verification Mission in Guatemala (<i>La Misión de Naciones Unidas en Guatemala</i>)
MLAR	Market-Led Agrarian Reform (<i>la reforma agraria asistida por el mercado</i>)
NGO	Non-Governmental Organization (<i>Organización no Gubernamental</i>)
RGP	General Register of Property (<i>Registro General de Propiedad</i>)
UFCO	United Fruit Company (<i>La United Fruit Company</i>)
URNG	Guatemalan National Revolutionary Union (<i>Unidad Revolucionaria Nacional Guatemalteca</i>)
UN	United Nations (<i>Las Naciones Unidas</i>)
UNDP	United Nations Development Program (<i>Programa de las Naciones Unidas para el Desarrollo</i>)
UNHCR	United Nations High Commissioner for Refugees (<i>La Agencia de la ONU para los Refugiados</i>)
USAID	United States Agency for International Development (<i>La Agencia de los Estados Unidos para el Desarrollo Internacional</i>)
USD	United States Dollars (<i>Dólares de Estados Unidos</i>)
WB	World Bank (<i>Banco Mundial</i>)

Table of Contents

Permission of Use	i
Abstract.....	ii
Acknowledgements.....	iii
Abbreviations and Acronyms	iv
CHAPTER 1 Introduction	1
A History of Concentration: Conquest, Force, and Coercion	3
Historiography, Methods, Sources, and Limitations.....	7
What will Follow	13
CHAPTER 2 Debt-Ridden Reform: FONTIERRAS’ Access to Land Program	15
Introduction.....	15
A History of Agrarian Reform: Diverging Approaches to Evolving Problems	16
The World Bank and the Rise of the MLAR	20
Figure 1: World Bank Publications Reflecting their Intentions for the MLAR	23
The Guatemalan Peace Accords: A Neo-Liberal Peace.....	23
FONTIERRAS and the Access to Land Program	28
Debt-Ridden Reform.....	30
Figure 2: FONTIERRAS’ Access to Land Program: Percentage of Participation by Sex from February 1998-2012	34
Figure 3: Territorial Distribution of Fincas Bought by the Land Fund.....	36
Inherent Limitations, Insufficient Capacity, Deficient Implementation, and Unfavorable Conditions	40
Conclusions.....	42
CHAPTER 3 Legal Displacement and the Solidification of Historical Inequalities: FONTIERRAS’ Land Regularization Program	44
Introduction.....	44
The World Bank, Land Titling, and the Peace Accords	45
FONTIERRAS and the State Land Regularization Program	48
False-Assumptions and Unmet Objectives	50
Figure 4: Reported Cases of Land Conflict in Guatemala (January- October 2009).....	54
Facilitating the Export Boom through Legal Displacement	58
Figure 5: Evolution of the Area Under Palm Oil Cultivation in Guatemala (2003-2012).....	59

Figure 6: Production and Export of Palm Oil in Guatemala (1993-2010).....	60
Figure 7: Areas of Land Regularization and Potential Land for Cultivating Palm Oil.....	62
Inequitable Growth	62
The World Bank and Its Conflict of Interest.....	65
Conclusions.....	66
CHAPTER 4: Conclusion	68
Bibliography	73

CHAPTER 1 Introduction

Inequitable land ownership has been, and continues to be, an enormous problem confronting Guatemala. Since it was first perceived to impede ideals and conceptions of progress, the ways in which land concentration has been problematized have evolved and expanded to include a variety of concerns. Consequentially, a variety of attempts have been made throughout Guatemala's history to distribute land more equitably. One of the most recent attempts has been through the implementation of a Market-Led Agrarian Reform (MLAR). This model of agrarian reform emerged in the 1980s out of criticisms of previous, state-led reforms and the growing neo-liberal rationale that resources are most efficiently and peacefully distributed through market forces.¹ Since the 1990s, the MLAR has gained prominence and has been widely implemented with the support of the World Bank (WB) in countries such as Brazil, Philippines, Colombia, and Guatemala.

Guatemala's MLAR received its mandate from the 1996 Peace Accords which, in addition to formally ending Guatemala's 36-year civil-war, recognized land concentration as a fundamental obstacle to the realization of peace and development.² Moreover, these accords placed responsibility on the government to address land concentration by implementing several market-led policies, which ultimately constituted an MLAR.³

¹ Shalmali Guttal, "Forward" in *Promised Lands: Competing Visions on Agrarian Reform* (Oakland: Food First Books, 2006), ix.

² Jennifer Schirmer, *The Guatemalan Military Project: A Violence Called Democracy* (Philadelphia: University of Pennsylvania Press, 1998), 15, 16.

³ "The Socio-economic Accord: Agreement on Social and Economic Aspects of the Agrarian Situation" in *Negotiating Rights: The Guatemalan Peace Process* (London: Conciliation Resources, 1997).

As the name suggests, the Market-Led Agrarian Reform, also referred to as the Market-Assisted Land Reform (MALR) is an approach to agrarian reform which distributes land via the market. The model is based on the assumption that the market, when functioning properly, is the best arbiter of supply and demand.⁴ An MLAR therefore attempts to improve the functioning of land markets by improving access to the market and by securing private property rights. The organization which has been responsible for overseeing these components of the MLAR in Guatemala is called FONTIERRAS or the Land Fund (*Fondo de Tierras*). FONTIERRAS administers three programs: The Access to Land Program, the Land Leasing Program, and the Land Regularization Program. This thesis focuses on the outcomes of the Access to Land Program (which facilitates the purchasing of land) and the Land Regularization Program (which assists in formalizing land title).⁵

Between the years of 1997 and 2011, FONTIERRAS assisted 20,010 families in purchasing land and issued 19,254 titles to land.⁶ There has been significant criticism of both the inadequacy and slow pace of land redistribution under this reform. Some scholars have argued that the reform has failed to meet the demands of the rural poor while others have suggested that the rural poor have been more successful when they circumvent the MLAR completely and

⁴ Hannah Wittman and Laura Saldivar-Tanaka, "The Agrarian Question in Guatemala," in *Promised Lands: Competing Visions on Agrarian Reform*. Edited by Peter Rosset, Raj Patel and Michael Courville (Oakland: Food First Books, 2006), 37.

⁵ FONTIERRAS, "Mecanismos y Avances Institucionales en la Observancia y Aplicabilidad de los Derechos Humanos de Comunidades Indígenas," 2011, 2.

⁶ FONTIERRAS, "Fondo de Tierras Programa de Acceso a la Tierra No. de Fincas Aprobadas y Entregadas," 2. <http://www.fontierras.gob.gt/index.php/resultados-institucionales/2011-11-02-15-56-54/listado-de-fincas-entregadas-1998-a-septiembre-2011>; FONTIERRAS, "Resultados Institucionales," <http://www.fontierras.gob.gt/index.php/resultados-institucionales>; FONTIERRAS, "Mecanismos y Avances institucionales en la observancia y aplicabilidad de los Derechos Humanos de Comunidades Indígenas," 2012, 8.

engage in direct occupation of land.⁷ Nonetheless, it is appropriate to assess the MLAR in terms of what its own literature argues it aimed to achieve—that being, improved access to land and the alleviation of poverty. The following examines the outcomes of the MLAR in light of its justification and objectives and argues that the MLAR has largely failed in its own terms. Instead of increasing access to land and alleviating poverty, the reform has resulted in massive beneficiary indebtedness, increased poverty, and the re-concentration of land.

But first, how did Guatemala come to have one of the most inequitable patterns of land distribution in the world? The following provides a brief history of how land became concentrated in Guatemala and how an MLAR came to be the most recent attempt at rectifying the situation.

A History of Concentration: Conquest, Force, and Coercion

Although the MLAR has been extensively implemented in response to demands for land throughout the world, the history which explains Guatemala's land concentration is unique. When the Spanish first arrived in, what is now, Guatemala, they forced much of the indigenous population from their lands and resettled them into centralized villages. This land was then granted to Creoles and the Spanish in order to produce cacao, indigo, and cochineal for exportation.⁸ After independence from Spain in 1821 and later from Central America in 1840, the displacement of indigenous communities continued. Governments worked quickly to pass

⁷ Simon Granovsky-Larsen, "Between the Bullet and the Bank: Agrarian Conflict and Access to Land in Neoliberal Guatemala," *The Journal of Peasant Studies* 40 no. 2 (2013).

⁸ Wittman and Laura Saldivar-Tanaka, "The Agrarian Question in Guatemala," 26; Susan A. Berger, *Political and Agrarian Development in Guatemala* (Boulder: Westview Press, 1992), 5.

resolutions to transfer large extensions of community-held land, to private ownership to secure land and labor for the expansion of large-scale export agriculture, namely coffee and banana production.⁹ Between 1896 and 1921, it is reported that 1.6 million hectares of land were transferred to private hands.¹⁰ Through the continued state promotion of investment and settlement, and the further granting of state and indigenous lands to plantation owners, land quickly became concentrated in the hands of few individuals.

The first major attempt to redistribute land to the rural poor came shortly following the first, free elections in Guatemalan history. In 1952, Jacobo Árbenz Guzmán began to implement his newly passed Agrarian Reform Law titled, “The Most Precious Fruit of the Revolution.” This law allowed peasants and peasant groups to claim uncultivated land greater than 224 acres (0.902 km²) for which the government would compensate based on self-declared land valuations in the fiscal registry of rural property.¹¹ Under the Agrarian Reform Law (Decree 900) over 100,000 families benefitted from the redistribution of 765,233 manzanas, totaling 526,465 hectares, between the years of 1952 and 1954.¹²

One company severely affected by the agrarian reform was the United Fruit Company (UFCO), an American corporation that had become the largest landowner in Guatemala.

Because 85% of their land was uncultivated at the time (said to be held in reserve in case of

⁹ David McCreery, “Land, Labour, And Community,” in *The Guatemala Reader: History, Culture, Politics* Edited by Greg Grandin, Deborah T. Levenson, Elizabeth Oglesby (Durham: Duke University Press, 2011), 121.

¹⁰ Rupert W. Scofield, “Land Reform in Central America,” in *Agrarian Reform and Grassroots Development: Ten Case Studies* Edited by Roy L. Posterman, Mary N. Temple, and Timothy M. Hanstad (Boulder: L. Rienner, 1990), 163.

¹¹ Government of Guatemala, “The Most Precious Fruit of the Revolution,” in *The Guatemala Reader: History, Culture, Politics* Edited by Greg Grandin, Deborah T. Levenson, Elizabeth Oglesby (Durham: Duke University Press, 2011), 217-218.

¹² One manzana is equal to 1.7 acres. Hectares calculated by author using figures found in Handy, *Revolution in the Countryside*, 90-92, 94, 197.

natural disasters), the UFCO lost roughly 150,000 hectares in the reform.¹³ They were offered \$600,000 in bonds by the Government of Guatemala (GoG) based on the UFCO's self-declared tax valuation, but the UFCO and the United States State Department felt the amount was insufficient.¹⁴ Although the agrarian reform faced local opposition (from the Catholic Church, the middle-class business sector, and plantation owners), opposition to the reform by the UFCO and the US government, along with cold war sentiments, were what ultimately led to the CIA-assisted overthrow of Árbenz in 1954 and the instillation of a new authoritarian regime under the presidency of Carlos Castillo Armas.¹⁵ Shortly thereafter, the land reform which *redistributed* nearly 20% of the total arable land in Guatemala at the time, to nearly 100,000 families, was almost entirely reversed.¹⁶

With the return to dictatorship came increased militarization, repression, corruption, and organized opposition.¹⁷ This opposition towards the government eventually became the focus of the military's counter-insurgency, initiating Guatemala's civil-war which continued for the next 36 years. During the civil-war, over 200,000 Guatemalans were killed or disappeared, and over 1 million were displaced due to violence.¹⁸

Throughout the civil-war, demands for land continued. Instead of attempting to expropriate and redistribute land, as the previous state-led agrarian reform had, the government

¹³ Thomas E. Skidmore, Peter H. Smith, *Modern Latin America* (Oxford: Oxford University Press, 2005), 390; Berger, *Political and Agrarian Development in Guatemala*, 70; Handy, *Revolution in the Countryside*, 197.

¹⁴ Berger, *Political and Agrarian Development*, 80.

¹⁵ *Ibid.*, 73.

¹⁶ Handy, *Revolution in the Countryside*, 94; Berger, *Political and Agrarian Development*, 77.

¹⁷ Jennifer Schirmer, *The Guatemalan Military Project: A Violence Called Democracy*, 15, 16.

¹⁸ "Conclusions II. Human Rights Violations, Acts of Violence and Assignment of Responsibility," in *Guatemala Memory of Silence: Report of the Commission for the Historical Clarification Conclusions and Recommendations*. https://www.aaas.org/sites/default/files/migrate/uploads/mos_en.pdf (Accessed September 2016).

placated demands from the rural poor by facilitating the colonization of frontier areas of the country and by subdividing large state farms. According to USAID, more than two-thirds of land distributed between 1955 and 1982 was in frontier areas.¹⁹ In addition, over 600,000 hectares of state-owned land was distributed by the Institute for Agrarian Transformation (*Instituto de Transformación Agraria*, INTA) between 1962 and 1999 (although many recipients did not end up having title to this land until FONTIERRAS took over).²⁰ Meanwhile, violence from the ongoing civil-war and desires for progress continued to displace many Guatemalans. By 1982, 375,000 families were reported to be landless.²¹

One of the most violent disposessions for the purpose of progress occurred during the 1970s and 1980s when the Chixoy Dam, funded by the WB and Inter-American Development Bank was built on the Chixoy River. Before loans were meant to be dispersed by these banks for the construction of the dam, a resettlement plan for the nearly 3,400 indigenous residents of the river-valley was required. These resettlement plans were never completed and without consulting or even notifying the affected communities, funding was dispersed and the dam was built. Although some residents did resettle, many, most notably the residents of Río Negro, did not. Tensions escalated in this heavily-militarized region and a series of massacres were conducted by the military and civil patrols under military control. In one village alone, 487

¹⁹ Susana Lastarria-Cornhiel, "Guatemala Country Brief: Property Rights and Land Market," Land Tenure Center, University of Wisconsin (2003): 12.

²⁰ Simon Granovsky-Larsen, "Within and Against the Market: The Guatemalan Campesino Movement Under Neoliberal Peace," PhD Dissertation, York University, Toronto, 2014, 58.

²¹ Roy L. Posterman, Mary N. Temple, and Timothy M. Hanstad Ed., *Agrarian Reform and Grassroots Development: Ten Case Studies*, (Boulder: L. Rienner, 1990), 20.

people were murdered. This development project not only led to thousands of murders, but it displaced over 3,500 people and negatively affected the livelihoods of thousands more.²²

As the war continued and violence escalated, much of which was directly related to disputes over land, and the number of displaced persons grew, demands for real, structural change intensified.²³ Peasant organizations occupied lands and increased their political activity to force agrarian reform to be part of the negotiations for peace.²⁴ As previously mentioned, the MLAR was what was negotiated and then mandated in the Peace Accords. According to Susan Gauster and S. Ryan Isakson, the agreement to implement a MLAR stemmed from opposition towards more redistributive methods of reform from the business and land-owning elite, encouragement from United Nations (UN) facilitators to adopt resolutions consistent with WB and International Monetary Fund (IMF) policies, and pressure from a group of countries providing international support for the peace process.²⁵

Historiography, Methods, Sources, and Limitations

I chose to investigate the extent to which the Guatemala's MLAR has been able to achieve its own stated goals of reducing poverty through improved access to land because, according to Saturnino Borrás Jr., the success of a reform, despite a literature of crude assessments,

²² Barbara Rose Johnston, "Development Disaster, Reparations, and the Right to Remedy: The Case of the Chixoy Dam, Guatemala," in *Development & Dispossession: The Crisis of Forced Displacement and Resettlement*, edited by Anthony Oliver-Smith (Santa Fe: School of Advanced Research, 2009), 208-215.

²³ Mathijs Van Leeuwen, "To Conform or to Confront? CSOs and Agrarian Conflict in Post Conflict Guatemala," *Journal of Latin American Studies* 42, no. 1 (2010): 98.

²⁴ Wittman and Laura Saldivar-Tanaka, "The Agrarian Question in Guatemala," 34.

²⁵ Susan Gauster and S Ryan Isakson, "Eliminating Market Distortions, Perpetuating Rural Inequality: an evaluation of market-assisted land reform in Guatemala," *Third World Quarterly* 28, 8 (2007).

is always a matter of degree.²⁶ The formulation of this question has also been informed by the historiography of agrarian reform and the questions which remain.

The main debates within the study of agrarian reform have centered around the potential for agrarian reform to promote various economic, social, and political outcomes.²⁷ These desired outcomes have shifted over time and have included: the redistribution of wealth and power, increased land productivity, industrialization and modernization, equity, growth, employment, improved well-being, environmental protection, political stability, political inclusion and democratization, and more recently, poverty alleviation. Driving the changing motives for agrarian reform have been paradigm shifts, changing values, the evolution of knowledge, and new actors involved in land policy and the demand for change. Similarly, these influences have led to changes in methods and approaches to agrarian reform. This has prompted discussions as to which methods and approaches are best suited to achieve particular goals and which models have the potential to fulfill added criteria such as gender equity or administrative efficiency, for example.

Over the years, it has become apparent that many agrarian reforms, despite bold policies and good intentions, have proven to be ineffectual.²⁸ In response to this realization, assessments of agrarian reforms have expanded to discuss the importance of political will, capacity to

²⁶ Saturnino M. Borras Jr., “The Underlying Assumptions, Theory, and Practice of Neoliberal Land Policies,” in *Promised Lands: Competing Visions on Agrarian Reform*. Edited by Peter Rosset, Raj Patel and Michael Courville. (Oakland: Food First Books, 2006), 111.

²⁷ Michael Lipton, “The Theory of the Optimizing Peasant,” *The Journal of Development Studies* 4 no. 3 (1968): 327; John H. Powelson and Richard Stock, *The Peasant Betrayed: Agriculture and Land Reform in the Third World* (Washington: Cato Institute, 1990); Marvin Ortega, “The State the Peasant and the Sandinista Revolution,” the *Journal of Development Studies* 26 no. 4(1990): 124. William C. Thiesenhusen, *Broken Promises: Agrarian Reform and the Latin American Campesino*. (Madison: University of Wisconsin-Madison, 1995).

²⁸ Thiesenhusen, *Broken Promises*.

implement, and suitable conditions. This thesis builds upon this knowledge and examines not only the MLAR model of agrarian reform, but also commitment to the program, implementation, and the context in which the reform was applied.

Although there have been many evaluations of the MLARs implemented in countries such as South Africa, Brazil, Philippines, and Colombia, there have been less systematic assessments of the Guatemalan case. Hannah Wittman and Laura Saldivar-Tanaka briefly discuss the recent reform in their chapter in *Promised Lands: Competing Visions on Agrarian Reform*, and assess the potential of the Peace Accords to rectify inequitable ownership.²⁹ Gauster and Isakson also offer an assessment of the reform and argue that the MLAR in Guatemala did not improve access to land because of the inherent limitations of the MLAR model itself.³⁰ Both of these works provided extensive background to reform, but provided limited detail into how the MLAR specifically functioned and in what context. These authors also focused more on the inadequacy of the MLAR model in regards to the expectations of Guatemalans than the reform's ability to address poverty and limited development.

Other works have assessed the reform in comparison to other methods of accessing land in Guatemala. Simon Granovsky-Larsen argues that historical land claims, rural labour disputes, and land occupations have resulted in greater peasant access to land than what has been achieved through the MLAR system.³¹ Because of works like these, and others, the shortcomings of the MLAR model are well-documented—these being that the MLAR is fundamentally non-

²⁹ Wittman and Laura Saldivar-Tanaka, “The Agrarian Question in Guatemala,” in *Promised Lands: Competing Visions on Agrarian Reform*. Edited by Peter Rosset, Raj Patel and Michael Courville (Oakland: Food First Books, 2006).

³⁰ Gauster and S Ryan Isakson, “Eliminating Market Distortions,” 1533-1534.

³¹ Granovsky-Larsen, “Between the Bullet and the Bank: Agrarian Conflict and Access to Land in Neoliberal Guatemala,” 325.

redistributive, it fails to address existing power relations that have created the exclusionary economy the model attempts to rectify, and it fails to acknowledge the non-commodity nature of land.³² By reducing land concentration to a market problem, the MLAR has neglected all other grounds for agrarian reform, including equity, justice, the environment, and food sovereignty. Predictably, Guatemala's MLAR has done little to improve these issues. These conclusions, although significant, have neither engaged the proponents of the MLAR model nor have they affected the ongoing MLAR in Guatemala. However limited or insufficient the objectives of the MLAR may be, the question remains: to what extent has the MLAR been able to achieve its own stated goals?

Guatemala's experience with the MLAR is the result of many histories intersecting at a particular time and place. This context, which is essential for understanding the reform, interpreting the outcomes of the reform, and informing any evaluation, has not been addressed in previous assessments. My research therefore builds upon previous works, and places a new assessment of the reform within a broader and more contextualized narrative.

The continued need for better solutions to land concentration has also informed my research question. Guatemala has one of the most skewed patterns of land distribution in the world with a Gini coefficient of .84.³³ As the Peace Accords established, inequality in land

³² Courville and Raj Patel, "The Resurgence of Agrarian Reform in the Twenty-first Century," in *Promised Lands: Competing Visions on Agrarian Reform*. Edited by Peter Rosset, Raj Patel and Michael Courville (Oakland: Food First Books, 2006), 11, 18-19.

³³ The Gini coefficient is a measurement of inequality, in which 0 represents total equality and 1 represents maximum inequality. Wittman and Laura Saldivar-Tanaka, "The Agrarian Question in Guatemala," 24; República de Guatemala Instituto Nacional de Estadística, "IV Censo Nacional Agropecuario: Características Generales de las Fincas Censales y de Productoras y Productores Agropecuarios," 2004, 19. <https://www.ine.gob.gt/sistema/uploads/2014/01/16/cv9H2R2CyhS1n0c1XfKqXVf4pLIxONTg.pdf>. (Accessed November 6, 2016).

ownership has prevented the country from achieving its economic potential and has been a principal cause of extreme poverty and violence. Overcoming this legacy is, therefore, of critical importance. Any knowledge gained from examining the results of this reform can be used to inform other students, researchers, activists, and policy-makers.

In approaching my research question, I created a list of smaller research questions that when answered, would provide insight into my larger question. Because existing literature has not explored the implementation of FONTIERRAS' programs in finer detail, I wanted to know: how did FONTIERRAS' programs function? Who were the beneficiaries? And how did beneficiaries gain access to land or receive land title? I also wanted to know what quality of land was acquired and where it was located. What have been the costs, benefits, and conditions of access to land? And has the newly-acquired tenure been secure? Additional awareness and incites into what questions would be revealing came from reviewing assessments of other MLARs and the historiography of agrarian reform, in general.

I sought answers to these questions in FONTIERRAS' progress reports, WB documents, Guatemalan newspaper articles, Non-Governmental Organization (NGO) and Civil Society Organization (CSO) evaluations, and government publications. The majority of these sources were found on the internet, on the webpages of organizations or through online archives and databases. These sources provided both qualitative and quantitative information on the reform and included some beneficiary perspectives through interviews conducted by other researchers. These answers were then assessed against a framework which was based upon the assumptions of the MLAR model and objectives of FONTIERRAS.

One of the main limitations of this research has been the political nature of existing sources. Land issues in Guatemala are very complicated and contentious, often having their

roots in violent events. This has made it dangerous for those making demands for land and for those investigating and reporting on these topics, thereby limiting access and dissemination of information. It is not uncommon for political leaders and activists to be killed and researchers threatened. I did attempt some archival and field work in Guatemala for this project where I visited several communities who were seeking the assistance of FONTIERRAS to defend their land titles, but made the decision to leave in response to violence. The material I gathered during that trip was not used in this paper. How I have attempted to overcome this limitation is by acknowledging and critically examining all my sources and using sources from varying political perspectives.

The second limitation of this research has been that the detailed outcomes of this reform have been insufficiently monitored and documented. The WB, for one, has done an extremely poor job of evaluating their involvement and outcomes of the reform. Their evaluations are crude, rating achievements and the success of entire programs as either “High,” “Substantial,” “Modest,” or “Negligible.” According to The Independent Evaluation Group (IEG) which assesses WB projects, neither of the WB’s projects which funded aspects of the MLAR in Guatemala made adequate provision for impact evaluation.³⁴ One of the main “lessons learned” by the WB was to take baseline data prior to program implementation, because they had not done so for their MLAR projects in Guatemala.³⁵ Because of this, I used a variety of sources to establish baseline data including records from the GoG, Food and Agriculture Organization

³⁴ The World Bank, “World Bank Support to Land Administration and Land Redistribution in Central America Report No.: 55341 An IEG Performance Assessment of Three Projects: El Salvador, Land Administration Project (Loan No. 3982) Guatemala, Land Administration Project (Loan No. 4415) Guatemala, Land Fund Project (Loan No. 4432)” June 30, 2010: 22.

³⁵ The World Bank, “Implementation Completion and Results Report (IBRD-44150) on a Loan in the Amount of US\$31.0 Million to the Republic of Guatemala for a Land Administration Project,” 2007: 24.

(FAO), United States Agency for International Development (USAID), United Nations Development Program (UNDP), Oxfam, Amnesty International and other sources.

The subsequent section outlines how my assessment will proceed.

What will Follow

The body of this thesis contains two chapters, each of which examines a separate program administered by FONTIERRAS. Chapter 2, titled “Debt-Ridden Reform: FONTIERRAS’ Access to Land Program,” begins by situating the WB’s MLAR model within a broader history of agrarian reform, demonstrating the variety of methods, means, and ends of agrarian reforms. This history counters the WB’s current understanding of the history of agrarian reform and is used to inform my analysis of Guatemala’s MLAR later in the chapter. The chapter then explains the emergence of the MLAR, its promotion by the WB, and how it came to be included in Guatemala’s Peace Accords. I then take a closer look at the Access to Land Program, what its goals were and how it functioned. I provide some results from this program, explain these results, and then analyze them against the assumptions the MLAR was built on, arguing that instead of improving access to land, FONTIERRAS’ Access to Land Program has led to beneficiary indebtedness and increased poverty.

Chapter 3, titled, “Legal Displacement and the Solidification of Historical Inequalities: FONTIERRAS’ Land Regularization Program,” begins by discussing the various motives, assumptions, and justifications for promoting land regularization, one of the key approaches the MLAR employs to improve the functioning of the land market. The chapter then examines the outcomes of the Land Regularization Program (specifically regarding land surveying and titling)

and measures these outcomes against the presumed benefits of the program. This chapter demonstrates how land regularization has not led to improved access to credit, increased tenure security, and a reduction in violence and poverty, but has facilitated the expansion of export agriculture at the expense of further displacement and the re-concentration of land.

Finally, in Chapter 4, I synthesize my analysis of FONTIERRAS' Access to Land and Land Regularization Program and make the case that Guatemala's MLAR has largely been a failure in its own terms—a failure for Guatemala's rural poor, but not for the elite who benefitted, first by avoiding expropriative agrarian reform in the peace negotiations and then again from the MLAR itself. I close by discussing the implications of these conclusions, how these conclusions fit within the existing literature, and what comes next.

CHAPTER 2 Debt-Ridden Reform: FONTIERRAS' Access to Land Program

Introduction

The MLAR model of agrarian reform is one of the latest, in a long series of policy initiatives aimed towards affecting land distribution. Following a brief period in the 1980s, when discussing redistributive agrarian reform was too politically sensitive, the WB successfully reframed inequitable land ownership as a market problem and put agrarian reform, in the form of an MLAR, back on the policy agenda, this time as a strategy for poverty alleviation. To the WB, “improving access to land [was] key to the alleviation of poverty, which [in 2000, according to the WB, afflicted] about 75% of Guatemalans, especially the rural and indigenous populations.”³⁶ After much debate and encouragement from several actors, including the WB, several resolutions which together constituted a MLAR (although not explicitly labelled a MLAR) were agreed to and mandated in the Guatemalan Peace Accords. Soon after, FONTIERRAS was established and Guatemala's MLAR began.

There are several components which comprised Guatemala's MLAR. These components included facilitating access to land by providing credit through a Land Fund, regularizing land tenure (legal reform, standardizing the process for acquiring land, cadastral surveying, land titling, resolving land conflicts), and providing credit and technical assistance. Not all of these efforts fell within the mandate of FONTIERRAS, but many did.

³⁶ The World Bank, “World Bank Approves Land Fund Project for Guatemala: Press Release,” 2000. <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/0,,contentMDK:20012841~menuPK:64282137~pagePK:41367~piPK:279616~theSitePK:40941,00.html>.

This chapter examines the successes of FONTIERRAS' primary objective—facilitating access to land through the “Access to Land Program” and asks: to what extent has this program achieved its goals? The following argues that even though FONTIERRAS' Access to Land Program assisted thousands of families in purchasing land between the years of 1997-2011, the model's inherent preferences, deficient implementation, and unfavorable conditions have meant that FONTIERRAS was unable to improve secure access to land in Guatemala, let alone improve the distribution of land. Instead, the program has indebted and further impoverished the majority its beneficiaries.

A History of Agrarian Reform: Diverging Approaches to Evolving Problems

Before examining the impact of Guatemala's MLAR, it is essential to situate the model within a broader history of agrarian reform. Doing so will create a fuller understanding of how and why agrarian reforms appeared, evolved, disappeared and reappeared in development policy agendas and how the MLAR emerged and was justified specifically. This history is not meant to be an exhaustive history of agrarian reform, but it serves to highlight some important and varying examples which together counter the WB's narrative that has been used to both justify and falsely inform evaluations of the MLAR.

Although the MLAR model is relatively new approach to agrarian reform, variations of agrarian reform have been carried out since ancient times. This past century, however, has witnessed the most agrarian reforms in human history.³⁷ In justifying the MLAR, the WB has

³⁷ Saturnino M. Borrás Jr., Cristóbal Kay and A. Haroon Akram Lodhi, “ISS/UNDP Land, Poverty and Public Action Policy Paper No. 1 Agrarian Reform and Rural Development: Historical Overview and Current Issues,” The Institute of Social Studies.

asserted that previous methods of agrarian reforms have been inefficient, contentious, and ultimately unsuccessful.³⁸ But this position does not accurately reflect the history of agrarian reform. Agrarian reforms have taken a variety of approaches, responding to an array of concerns, and have had varying levels of success and failure.

Redistributive agrarian reforms have been a popular development strategy over the past century.³⁹ Although not labelled “development” until after WWII, similar aspirations for progress through agrarian change began in the late 19th century. Influenced by liberal and socialist economic thought and the evolution of knowledge regarding the relationship between productivity and land ownership, leaders in countries such as China, Guatemala, Mexico, and the former Soviet Union undertook varying styles of agrarian reforms as a strategy to towards their national development.⁴⁰ Following WWII, highly redistributive agrarian reforms were also implemented in China, Japan, South Korea, and Taiwan. These reforms have been attributed to helping reduce rural poverty and contributing to the rapid industrialization and modernization which has made the economies of these countries some of the world’s fastest-growing in the second half of the 20th century.⁴¹

Agrarian reforms have also been utilized for political reasons across all ideologies. During the Cold War, reforms became part of broader strategies to quell leftist revolutions by

<http://www.iss.nl/content/download/3831/37212/file/ISS%20UNDP%20Overview%20paper.pdf>
(Accessed October 12, 2011), 2.

³⁸ The World Bank, “Market-Assisted Land Reform: A New Solution to Old Problems,” Agriculture & Natural Resource Department Dissemination Notes No. 4 (August 1995).

³⁹ Borras Jr., “The Underlying Assumptions, Theory, and Practice of Neoliberal Policies,” 100.

⁴⁰ Courville and Raj Patel, “The Resurgence of Agrarian Reform in the Twenty-first Century,” 16.

⁴¹ John P. Powelson and Richard Stock, *The Peasant Betrayed: Agriculture and Land Reform in the Third World* (Washington: Cato Institute, 1990), 188; James K. Boyce, Peter Rosset, and Elizabeth A. Stanton, “Land Reform and Sustainable Development,” *Political Economy Research Institute* (2005): 4.
http://scholarworks.umass.edu/cgi/viewcontent.cgi?article=1079&context=peri_workingpapers.

pacifying the landless. During the 1960s, through the Alliance for Progress, the United States supported many capitalist-oriented agrarian reforms across Latin America in an effort to secure capitalism and promote democracy.⁴² Although this application of agrarian reform was only used for a short period, other political motivations have led to agrarian reforms, including legitimizing the rule of elected parties following their election in such places as Kerala and Chile and simply general political compromise.⁴³

When governments have failed to redistribute land, peasants have worked for change from below in what is called a “society-driven agrarian reform.” These have been attempted in various ways. Peasant-based revolutions have brought about agrarian change in Bolivia and Mexico, while more recently land occupations have had significant success in countries including Brazil and Zimbabwe. In recent years, over tens of millions of hectares have been redistributed through land occupations in Brazil and Zimbabwe.⁴⁴

While some agrarian reforms sought to redistribute already concentrated land, as in the case of Guatemala’s agrarian reform in the 1950s, others have been non-redistributive and have affected land concentration by making new land available. In the second half of the twentieth century, the WB financed many of these resettlement schemes. In Latin America specifically, colonizing the frontier increased overall arable land by 109% between the years of 1950 and 1980.⁴⁵

⁴² Philip McMichael, *Development and Social Change: A Global Perspective Fourth Edition* (Los Angeles: Pine Forge Press, 2008), 82.

⁴³ Courville and Raj Patel, “The Resurgence of Agrarian Reform in the Twenty-first Century,” 16.

⁴⁴ Peter Rosset, “Introduction. Alternatives: Between the State Above and the Movement Below,” in *Promised Lands: Competing Visions of Agrarian Reform* (Oakland: Food First Books, 2006), 222.

⁴⁵ McMichael, *Development and Social Change: A Global Perspective Fourth Edition*, 82.

Throughout the 1970s and 1980s, agrarian reforms continued. Yet as a development strategy, agrarian reform was practically eliminated from the policy agendas of international development institutions. This was because the need for pre-emptive agrarian reforms had largely diminished, governments in the developing world were financially crippled from the debt crisis, and agrarian reform, in general, was increasingly being viewed by these institutions as overly bureaucratic, politically-sensitive, and unsuccessful.⁴⁶

By the 1990s however, agrarian reform was back on many policy agendas, including the policy agenda of the WB. A confluence of several events and processes explains this. First, the failure of the WB/IMF-inspired structural adjustment programmes in the 1980s and 1990s to deliver economic growth further fueled rural unrest and mobilized social organizations to intensify their demands for land.⁴⁷ Additionally, land-related conflicts such as the Chiapas uprising in Mexico and state-instigated land invasions in Zimbabwe reminded the world that although agrarian reforms had briefly left the agendas of development institutions, it had never left the political agenda of peasants and their organizations.⁴⁸ The Cold War and recent civil-wars in Guatemala, Nicaragua, and El Salvador had also just ended at this time. To policy makers, peasants in these post-war countries were political actors that needed to be “courted, neutralized, or blocked.”⁴⁹ In light of these violent conflicts and failed attempts to promote

⁴⁶ Borras, Cristóbal Kay and A. Haroon Akram Lodhi, “ISS/UNDP Land, Poverty and Public Action Policy Paper No.1,” 9, 10.

⁴⁷ Edward Lahiff, Saturnino M. Borras, Jr., Cristobal Kay, “Market-Led Agrarian Reform: Policies, Performance and Prospects,” *Third World Quarterly* 28, no. 8 (2007): 1420.

⁴⁸ Borras, Cristóbal Kay and A. Haroon Akram Lodhi, “ISS/UNDP Land, Poverty and Public Action Policy Paper No.1,” 12.

⁴⁹ Marc Edelman, “Transnational Organizing in Agrarian Central America: Histories, Challenges, Prospects,” in *Transnational Agrarian Movements Confronting Globalization*, edited by Saturnino M. Borras Jr., Marc Edelman, and Cristobal Kay, (Sussex: Blackwell Publishing, 2008), 62.

growth, the role of agrarian reform was again being recognized as a tool for promoting peace and growth and the transition to democracy.⁵⁰

Arguably, most significant process which helped resurrect and re-legitimize agrarian reform was the shift back to liberalism.⁵¹ Neo-liberalism and its prescription for progress through privatization, liberalization, and deregulation, allowed for all aspects of society to be explained in economic terms. By framing inequitable land ownership as solely a market problem, agrarian reform (specifically the MLAR) was no longer considered to be too political, radical, or taboo.⁵² Moreover, this new conceptualization allowed for new actors to take the leading role in agrarian change.

The World Bank and the Rise of the MLAR

The rise of the MLAR can largely be attributed to its extensive promotion by the WB. The WB, originally named the International Bank for Reconstruction and Development (IBRD), was created in 1944 at the Bretton Woods Conference to help facilitate European reconstruction following WWII.⁵³ After the need for reconstruction in Europe diminished, the WB shifted its focus to providing for “basic needs” in the Global South. In relation to land, this meant supporting resettlement schemes, land titling programs, and funding infrastructure projects which

⁵⁰ Richard Jolly, Louis Emmerij, Dharam Ghai, and Frederic Lapeyre, *UN Contributions to Development Thinking and Practice* (Bloomington: Indiana University Press, 2004), 177.

⁵¹ Carmen Diana Deere, “Foreword” in *Promised Lands: Competing Visions on Agrarian Reform*. Oakland: Food First Books, 2006, ix.

⁵² Shamali Guttal, Peter Rosset, and Maisa Luisa Mendonca, “Preface: A History and Overview of the Land Research Action Network” in *Promised Lands: Competing Visions on Agrarian Reform*. Oakland: Food First Books, 2006, xiii;

⁵³ McMichael, *Development and Social Change*, 58.

were needed to increase agricultural production.⁵⁴ Although the Bank did not directly finance state-led agrarian reforms, they did, in fact, acknowledge the merits of state-led, redistributive land reforms on the grounds of equity and efficiency, citing the successes of Asian land redistribution in their “1975 Land Reform Policy Paper”.⁵⁵

When the WB resurrected agrarian reform in the early 1990s, they completely reframed and rebranded agrarian reform. First, they reduced the problem of land concentration to a distribution problem caused by the market inefficiencies. According to Jim Scott, state simplification is imposed to make an undertaking manageable, reflecting capacity, scope, and a small number of objectives.⁵⁶ To be sure, reducing land concentration to a market problem, established inequitable land distribution as a problem which fit within the WB’s capacity, scope of influence, and mandate. The WB also transformed the approach to agrarian reform, where instead of addressing concentration with redistribution, the solution to concentration became extending access to the land market, thereby affecting distribution. Until this point in time, the majority of agrarian reforms were almost entirely of the conventional, state-led (or revolutionary) variety.⁵⁷ According to the WB, the MLAR was going to be the “New Solution to Old Problems,” (see Figure 1) overcoming the disputes, delays, and inefficiencies which, according to their perspective in the 1990s, undermined previous conventional reforms.⁵⁸

⁵⁴ The World Bank, “Land Reform Policy Paper 1975,” 38.

⁵⁵ *Ibid.*, 11, 40.

⁵⁶ Jim Scott, “State Simplifications: Nature, Space and People,” *The Journal of Political Philosophy* 3, no 3 (1995): 195.

⁵⁷ Klaus Deininger and Hans Binswanger, “The Evolution of World Bank’s Land Policy,” *The World Bank Research Observer* 14 no. 2 (1999): 255.

⁵⁸ The World Bank, “Market-Assisted Land Reform: A New Solution to Old Problems,” *Agriculture & Natural Resource Department Dissemination Notes* No. 4 (August 1995): 1.

In fact, the MLAR model was designed in complete opposition to state-led agrarian reforms. Where state-led reforms were purported by the WB to be coercive, supply-driven, contentious, and expensive, the market-led approach was touted to be voluntary, demand-driven, non-contentious, and cost-effective.⁵⁹ Although the WB never supported their claims, analytically or empirically, WB-funded MLAR projects were welcomed by elites (as a way to avoid the expropriation and redistribution associated with other types of agrarian reform) and implemented in 48 countries (76 projects) between the years of 1990 and 2014.⁶⁰

As previously explained, agrarian reforms have been implemented in hopes of achieving a variety of goals; these goals included redistributing wealth and power, modernizing and industrialising agricultural production, facilitating development, pacifying the landless and discouraging communism, legitimizing rule, promoting democratization and peace, and redressing historical inequalities. When the WB resurrected agrarian reform, poverty alleviation became the primary motive, situating the MLAR within the Bank's most recent mandate to reduce poverty through an "inclusive and sustainable globalization."⁶¹ Interestingly, early WB policy papers also discussed the MLAR as an approach to addressing the "farm debt crisis" (see Figure 1) which many developing countries, including Guatemala, were experiencing due to structural adjustment programs imposed on them earlier by the WB and the IMF.⁶² This justification does not seem to survive long in WB documentation nor is it used as a motive for

⁵⁹ Borras Jr., "The Underlying Assumptions, Theory, and Practice of Neoliberal Land Policies," 108-109.

⁶⁰ Kevin A Gould, "Everyday expertise: land regularization and the conditions for land grabs in Petén, Guatemala," *Environment and Planning* 46 (2014): 2353.

⁶¹ The World Bank, "History," <http://www.worldbank.org/en/about/history>. (Accessed July 2015).

⁶² The World Bank, "Market-Assisted Land Reform: Helping Solve a Debt Crisis," *Agriculture & Natural Resource Department Dissemination Notes* No. 5 (August 1995): 2.

agrarian reform in Guatemala.

Figure 1: World Bank Publications Reflecting their Intentions for the MLAR



Source: The World Bank, “Market-Assisted Land Reform: Helping Solve a Debt Crisis,” and The World Bank, “Market-Assisted Land Reform: A New Solution to Old Problems.”

The Guatemalan Peace Accords: A Neo-Liberal Peace

On December 29, 1996, after 10 years of gradually moving towards peace and several years of direct negotiations, the final Peace Accord was signed by the GoG and the Unidad Revolucionaria Nacional Guatemalteca (URNG), officially ending Guatemala’s 36-year civil-war. Besides establishing a formal ceasefire, these 13 accords laid the groundwork for a transition to a more democratic and inclusive society. The organization responsible for drafting the blue print for change was the Assembly of Civil Society (ASC).

The ASC was established in 1994 following the Framework Accord and was given the mandate to bring together diverse sectors of society to provide recommendations to the URNG and the GoG. The organization was made up of political parties, religious groups, trade unions, popular organisations, women's organisations, other non-governmental development

organisations, research centres, human rights groups, and media organisations. Together within the ASC, these organizations were responsible for formulating consensus positions on six major issues: 1) strengthening civil society and the function of the army in a democratic society; 2) the identity and rights of indigenous people; 3) constitutional reform and the electoral regime; 4) the resettlement of those displaced by the conflict; 5) socio-economic conditions; and 6) the agrarian situation. These recommendations were not binding, but were considered by the negotiators. In turn, the ASC would decide if they would endorse the final agreements (which they did), thereby facilitating the implementation of commitments within the accords.⁶³ According to Enrique Alvarez, a founding member of the ASC, the “ASC's mandate meant that civil society [had] a formal place at the negotiating table; they [had] a voice, but not a decision-making vote.”⁶⁴ Despite not having any decision-making power, many of the ASC's recommendations were incorporated into the final accords.⁶⁵

Initially, Guatemala's economic elite condemned and boycotted the negotiations, but as discussions began to encompass potential agrarian reform, the private sector began to participate through the powerful Coordinating Committee of Agricultural, Industrial and Financial Associations (CACIF).⁶⁶ CACIF was meant to be part of the ASC, but they refused to join and instead lobbied directly to negotiators. According to Enrique Alvarez and Tania Palencia Prado,

⁶³ Enrique Alvarez, “The Civil Society Assembly: Shaping agreement,” Conciliation Resources 2003. <http://www.c-r.org/accord-article/civil-society-assembly-shaping-agreement>. (Accessed November 29, 2016).

⁶⁴ Ibid.

⁶⁵ Enrique Alvarez and Tania Palencia Prado, “Owning the process: Public participation in peacemaking,” Conciliation Resources, 2002. <http://www.c-r.org/accord/public-participation/guatemala-s-peace-process-context-analysis-and-evaluation>. (Accessed November 29, 2016).

⁶⁶ Simon Granovsky-Larsen, “The Peace of the Oligarchs: Land Distribution and the Guatemalan Peace Process,” *Canadian Journal of Development Studies* 24 no. 4 (2003): 621.

CACIF had significant influence in the negotiations and successfully substituted many of their own recommendations in the final agreements.⁶⁷

In the Agreement on Social and Economic Aspects and Agrarian Situation, the authors of the accords provide a perspective on the land problem with which few would disagree:

27. It is essential and unavoidable to solve the problems of agrarian reform and rural development in order to address the situation of the majority population, which live in rural areas and is most affected by poverty, extreme poverty, injustice and the weakness of State institution...⁶⁸

28. Land is central to the problems of rural development. From the conquest to the present, historic events, often tragic, have left deep traces in ethnic, social and economic relations concerning property and land use. These have led to a situation of concentration of resources which contrasts with the poverty of the majority and hinders the development of Guatemala as a whole. It is essential to redress and overcome this legacy and promote more efficient and more equitable farming, strengthening the potential of all those involved, not only in terms of productive capacity but also in enhancing the cultures and value systems which coexist and intermingle in the rural areas of Guatemala.⁶⁹

Where opinions differed, however, were on the appropriate resolutions to land concentration.

While indigenous groups such as The Coordination of Organizations of Mayan Peoples (COPMAGUA) pushed for an expropriative and redistributive land reform, organizations representing large-landowners such as CACIF argued for the further privatization of communal and state lands.⁷⁰ Ultimately, the Peace Accords mandated several approaches to addressing land

⁶⁷ Alvarez and Tania Palencia Prado, "Owning the process: Public participation in peacemaking."

⁶⁸ "Agreement on Social and Economic Aspects and Agrarian Situation concluded on 6 May 1996 between the Presidential Peace Commission of the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca." English Version Translated and Published by the United Nations. Section III., Paragraph 27. <http://www.guatemalaun.org/bin/documents/Socio-economic%20and%20agrarian%20situation.pdf>. (Accessed October 21, 2016).

⁶⁹ Ibid., Article III., Paragraph 28.

⁷⁰ Wittman and Laura Saldivar-Tanaka, "The Agrarian Question in Guatemala," 34.

concentration. Commitment to implementing some of these resolutions has been stronger than others.

One approach outlined in the Agreement on Social and Economic Aspects and Agrarian Situation was to impose higher land taxes on under-utilized and un-utilized land, providing an economic incentive for large landowners to sell their underutilised holdings.⁷¹ Due to a lack of government commitment and powerful lobbying and misinformation campaigns by those who opposed taxation, an increased land tax has not yet been implemented in Guatemala.⁷² In regard to resettling displaced persons from the civil-war, the GoG agreed to promote the return of land to the original holders who were forced to abandon their land as a result of armed conflict.⁷³ In all, some 31,000 refugees participated in the collective return process, which began in 1993 and drew to a close in 1998. But because the recovery of original lands of displaced persons was difficult, due to irregularities in land tenancy before the abandonment or loss of documentation during the conflict, in general, those who returned earliest, when government and international attention was focused on these issues, were most successful in recovering property or receiving new lands. Still, many resettlements remain unresolved.⁷⁴

Although several means for rectifying the land situation were mandated in the Peace Accords, the approach which has received the largest level of government commitment has been the market-led resolutions, specifically, the establishment of a land trust fund and the promotion

⁷¹ “Agreement on Social and Economic Aspects and Agrarian Situation,” Article III., Section j, Paragraph 42.

⁷² Gauster and S Ryan Isakson, “Eliminating Market Distortions,” 1525, 1527.

⁷³ “Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict Signed on 17 June 1994,” English Version Translated and Published by MINUGUA, United Nations Mission for the Verification of Human Rights in Guatemala, Article III, Paragraph 9. www.un.org/Depts/minugua/paz5.htm. (Accessed October 21, 2016).

⁷⁴ Marcie Mersky, “Human Rights in Negotiating Peace Agreements: Guatemala,” International Council on Human Rights Policy 2005: 26.

of land regularization.⁷⁵ Together, these resolutions depoliticized agrarian reform and set up the requirement for the Guatemalan government to implement an MLAR. In Section III, Article 33 of the Agreement on Social and Economic Aspects and Agrarian Situation, the intentions and responsibilities of the land trust fund are explained:

The Government will take the following actions:

Establish a land trust fund within a broad-based banking institution to provide credit and to promote savings, preferably among micro-, small and medium-sized enterprises. The land trust fund will have prime responsibility for the acquisition of land through Government funding, will promote the establishment of a transparent land market and will facilitate the updating of land development plans. The fund will give priority to the allocation of land to rural men and women who are organized for that purpose, taking into account economic and environmental sustainability requirements...⁷⁶

Ultimately, the final resolutions and the extent of commitment they received reflect the power dynamics which were re-negotiated during the peace process. According to Granovsky-Larsen, the results of the Peace Accords were swayed heavily by the influence of Guatemala's elite and International Financial Institutions (IFIs) like the IMF and the WB.⁷⁷ The outcomes, specifically the inclusion of an MLAR became one of the most volatile issues in the Guatemalan Peace Accords and many organisations initially refused to even recognise the Agreement on the Social and Economic Aspects and Agrarian Situation. The ASC did finally give its endorsement, but groups such as la Coordinadora Nacional Indígena y Campesina (CONIC) and COPMAGUA did so with considerable misgivings.⁷⁸ Because of the inclusion of the MLAR and other market-

⁷⁵ "Agreement on Social and Economic Aspects and Agrarian Situation," Article III Section b, Paragraph 34a and Section b, Paragraph 25; "Agreement on Identity and Rights of Indigenous Peoples," Article IV, Section f, Paragraph 5.

⁷⁶ "Agreement on Social and Economic Aspects and Agrarian Situation," Article III Section b, Paragraph 34a.

⁷⁷ Granovsky-Larsen, "Between the Bullet and the Bank," 329.

⁷⁸ Roman Krznaric, "Civil and Uncivil Actors in the Guatemalan Peace Process," *Society for Latin American Studies* 18, No. 1(1999), 7.

oriented policies contained in the accords, experts have regarded these agreements as a “neoliberal peace,” a consolidation of neoliberalism through consent, or “a peace agreement that is more focused upon the creation of a market economy than on the equitable distribution of resources and power.”⁷⁹

FONTIERRAS and the Access to Land Program

In May 1997, Guatemala’s MLAR began when the federal government established the Land Trust Fund. Two years later, the Guatemalan congress formalized the operation of the fund, and on July 26, 2000 the WB officially made its first monetary contribution.⁸⁰ The WB’s involvement and objectives in the program were to:

assist the GoG to: (a) establish a program to facilitate beneficiaries' access to land; (b) support beneficiaries' access to technical assistance and productive subproject financing; and (c) improve the legal and institutional framework so that land markets can work more efficiently.⁸¹

FONTIERRAS itself has many lengthy visions, missions, and objectives, but their primary goal is to, “support families to gradually become highly productive and competitive farmers and peasants, as the ideal way of combating poverty in the rural area of our country.”⁸² Three programs made up FONTIERRAS: the Access to Land Program, the Land Leasing Program, and

⁷⁹ Gauster and S. Ryan Isakson, “Eliminating Market Distortions,” 1523.

⁸⁰ The World Bank, “Implementation Completion and Results Report on a Loan in the Amount of US\$23 Million to the Republic of Guatemala for a Land Fund Project 2006,” 10. http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/03/28/000012009_20060328085004/Rendered/PDF/346150rev0pdf.pdf (Accessed April 11, 2013).

⁸¹ World Bank, “Implementation Completion and Results Report on a Loan in the Amount of US\$23 Million to the Republic of Guatemala for a Land Fund Project 2006,” 2.

⁸² Fontierras, “Memoria de Labores Fondo de Tierras 2000.”

the Land Regularization Program. This chapter focuses on the operations and outcomes of the Access to Land Program.

The Access to Land Program functioned by providing successful applicants with low-interest loans for the purchase of land. Although land purchased through the Land Fund was meant to come from several sources, including land given illegally to military officers during the conflict, unused state-owned land, and a limited number of expropriated properties as allowed under Article 40 of the constitution, FONTIERRAS has functioned mainly as a broker between large land-owners and landless, FONTIERRAS applicants.⁸³ Those wishing to purchase land, first had to locate the land they wished to buy and then apply to FONTIERRAS for a loan. Loans were provided on a competitive basis which was determined by an assessed-ability for applicants to repay the loan.⁸⁴ Land prices were negotiated directly between landowners and buyers and if applicants were successful in their loan application, the landowner would be fully compensated in cash for the amount agreed.⁸⁵ The loans which FONTIERRAS provided had an interest rate of 2.85 % with a 4-year grace period and 5% interest after the grace period had ended. Beneficiaries were also provided with subsidies and free legal and technical assistance for up to 3 years.⁸⁶

⁸³ Agreement on Social and Economic Aspects and Agrarian Situation concluded on 6 May 1996 between the Presidential Peace Commission of the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, Section III, Article 34, Paragraph c; Granovsky-Larsen, "Within and Against the Market: The Guatemalan Campesino Movement Under Neoliberal Peace," 42.

⁸⁴ Wittman and Laura Saldivar-Tanaka, "The Agrarian Question in Guatemala," 23.

⁸⁵ Lahiff, Saturnino M. Borrás, Jr., Cristóbal Kay, "Market-Led Agrarian Reform: Policies, Performance and Prospects," 1423, 1424.

⁸⁶ FONTIERRAS, "Mecanismos y Avances institucionales en la observancia y aplicabilidad de los Derechos Humanos de Comunidades Indígenas," 2012, 2.

<http://www.fontierras.gob.gt/images/programas/resultados-institucionales/otros-documentos/Avances%20Institucionales%20DDHH%20Pueblos%20Indigenas.pdf>.

Debt-Ridden Reform

Between 1997 and 2011, 20,010 families purchased 264 farms, totalling 95,034.72 hectares with the assistance of the Land Fund.⁸⁷ Although over 20,000 families acquiring land is a significant achievement, this success becomes much less impressive when considered alongside the total number of applicants. When viewed in this context, the Land Fund has provided for only a fraction of the total demand for land. In 2002, CNOC identified that FONTIERRAS was unable to provide for more than 316,000 families who had applied for assistance. CNOC predicted that, when taking into consideration the growth of the population without access to land, the unmet demand for land would continue to increase by more than 8,000 per year.⁸⁸ In 2006, high demand continued to be a challenge for the Land Fund, as acknowledged by the WB in their evaluation of their own involvement up until that point.⁸⁹ According to the most recent information provided by FONTIERRAS, the unmet demand for land had grown to more than 480,000 rural families by 2011.⁹⁰ This means that up until 2011, the Access to Land Program provided land for roughly 4% of those who had applied. When compared to Guatemala's state-led, agrarian reform which took place between the years of 1952

⁸⁷ FONTIERRAS, "Fondo de Tierras Programa de Acceso a la Tierra No. de Fincas Aprobadas y Entregadas," 2. <http://www.fontierras.gob.gt/index.php/resultados-institucionales/2011-11-02-15-56-54/listado-de-fincas-entregadas-1998-a-septiembre-2011>; FONTIERRAS, "Resultados Institucionales," <http://www.fontierras.gob.gt/index.php/resultados-institucionales>.

⁸⁸ Coordinadora Nacional de Organizaciones Campesinas de Guatemala (CNOC), "Propuesta de Reforma Agraria Integral," 2005, 42.

⁸⁹ The World Bank, "Implementation Completion and Results Report on a Loan in the Amount of US\$23 Million to the Republic of Guatemala for a Land Fund Project 2006," 15.

⁹⁰ FONTIERRAS, "Información para Transición 2011 - 2012," <http://www2.maga.gob.gt/portal.maga.gob.gt/portal/page/portal/2010/Transicion/Jornada%20de%20Transici%C3%B3n%20MAGA-Autoridades%20Electas/4.%20Presentaciones%205%20dic.%20Descentralizadas/Presentacion%20a%20Comision%20de%20Transicion%20FONTIERRAS%20Dic%202011.pdf> (Accessed January 2013).

and 1954 (where 100,000 families received redistributed land in 2 years), the results of the MLAR become even less impressive, appearing to be both limited-in-reach and slow.⁹¹

Who specifically were the beneficiaries of the Access to Land Program? According to FONTIERRAS' own calculations, the Access to Land Program successfully met its mandate to provide land for Guatemala's indigenous population, specifically. Between the years of 1997 and 2011, 80% percent of the 20,010 families who purchased land were indigenous. The largest indigenous linguistic communities served were Q'eqchi at 70%, Quiché at 12%, Chuj at 6%, and Kaqchikel, also at 6%.⁹² This high representation appears to be a significant accomplishment since Guatemala's indigenous populations have been the most poor, socially-excluded, and land-poor populations in the country. During colonization, indigenous populations were forcibly removed from their land and placed into centralized villages to ensure land and labor for the Guatemala's elite. After independence, they experienced further loss of land to private ownership and an expanding export agricultural industry.⁹³ More recently, indigenous populations have been further displaced by civil-conflict, resource extraction, and efforts to preserve the environment.

FONTIERRAS has a clear mandate to provide for Guatemala's indigenous population. They maintained that they were committed to and respectful of the International Convention on the Elimination of All Forms of Racial Discrimination, ratified in 1983, and operate in accordance with The Peace Accords' Agreement on the Identity and Rights of Indigenous

⁹¹ Handy, *Revolution in the Countryside: Rural Conflict and Agrarian Reform in Guatemala 1944-1954*, 94.

⁹² FONTIERRAS, "Mecanismos y Avances institucionales en la observancia y aplicabilidad de los Derechos Humanos de Comunidades Indígenas," 2012, 5, 6.

⁹³ Wittman and Lauara Saldivar-Tanaka, "The Agrarian Question in Guatemala," 26.

persons.⁹⁴ Special attention was given within the program to make Guatemala's various indigenous groups aware of their services and included in the program. Radio and television commercials were broadcasted nationally in Spanish as well as four prominent Mayan languages.⁹⁵

Although the FONTIERRAS was able to successfully support many indigenous applicants, it has not improved access to land overall for poor Guatemalans. Beginning before the application process, only those able to bear the financial costs and time needed to search for farms which met the Land Trust's requirements were able to place an application with FONTIERRAS. Families that met this requirement were then evaluated on their socioeconomic capabilities. They were assessed for their "strengths" and "weaknesses" using a point system which categorized them as "optimal," "regular," (meeting the requirements), and "unfavorable" candidates for land credits. Unfavorable candidates were viewed not to have the necessary training, finances, experience, or accompaniment of a peasant organization to be viable farmers.⁹⁶ Essentially, the poor were considered unfavorable candidates and were systematically prevented from acquiring land through the Access to Land Program. According to a CNO

⁹⁴ FONTIERRAS, "Mecanismos y Avances Institucionales en la Observancia y Aplicabilidad de los Derechos Humanos de Comunidades Indígenas," 2012: 2; United Nations High Commissioner for Refugees Committee on the Elimination of Racial Discrimination, "Seventh Periodic Report of States Parties Due in 1996: Guatemala," 1996: 3. <http://www.unhcr.org/refworld/pdfid/3f4a07b50.pdf>.

⁹⁵ FONTIERRAS, "Mecanismos y Avances Institucionales en la Observancia y Aplicabilidad de los Derechos Humanos de Comunidades Indígenas," 2012: 4.

⁹⁶ Conclusions based consultative workshops with 23 Land Fund beneficiary communities in four regions of the country (Petén, the Northern, Southern and Western regions) as well as eight community field visits, selected according to the following criteria to ensure a comparison of different situations: geographic location, membership or not of CNO, different technical assistance firms and different phases in the land access process from: Coordinación de ONG y Cooperativas (CONGCOOP) "FONTIERRAS: El modelo de mercado y el acceso a la tierra en Guatemala. Balance y Perspectivas," 2002: 14.

evaluation in 2002, the majority of those who received credit from the FONTIERRAS by that time were above the lowest socio-economic level.⁹⁷

For the same reason that FONTIERRAS has not provided for the poor, it has not provided for women. Of the 20,010 families who purchased land as of February 2012, 17,811 of them have been headed by men. Proportionally, land acquisition by sex within the program has been 89% male and 11% female (see Figure 2).⁹⁸ This program has favoured men due to the competitive nature of the program itself and its inherent preference for financially-fit applicants.⁹⁹ Rarely, are the most financially-fit applicants female. This is because rural women, and even more so, indigenous women, possess less social and financial power than men, despite their important contributions to the family and their agricultural activities. Indigenous women in Guatemala have one of the highest illiteracy rates in Latin America. Often, they speak only their indigenous language, exacerbating their marginalization by excluding them from the formal education system. Higher rates of poverty have further inhibited their ability to meet FONTIERRAS' application requirements, affecting 75% of rural women and 80% of indigenous women.¹⁰⁰

⁹⁷ Wittman and Laura Saldivar-Tanaka, "The Agrarian Question in Guatemala," 23-24.

⁹⁸ FONTIERRAS, "Fondo de Tierras Programa de Acceso a la Tierra No. de Fincas Aprobadas y Entregadas."

⁹⁹ Borras Jr., "The Underlying Assumptions, Theory, and Practice of Neoliberal Land Policies," 117.

¹⁰⁰ Jeffrey Hatcher, Laura Meggiolaro, Catia-Isabel, and Santonico Ferrer, "Cultivating Women's Rights for Access to Land: Country Analysis and Recommendations for Guatemala," (Rome: ActionAid International, 2005), 42.

Figure 2: FONTIERRAS' Access to Land Program: Percentage of Participation by Sex from February 1998-2012



Source: FONTIERRAS, “Programa De Acceso a la Tierra Porcentaje de Participación por Sexo de 1998 a febrero 2012.”

In 2010, FONTIERRAS implemented a Gender Equality Policy aimed to “ensure the permanent incorporation of women in the Land Fund.”¹⁰¹ Despite their efforts to resolve FONTIERRAS’ male preference, gender inequity persisted within the program, a trend reflective of land ownership patterns on the national level. Since FONTIERRAS began, proportional land ownership by sex has changed only slightly, as demonstrated by data published by the UNDP. In 2000, women constituted 17% percent of Guatemala’s total land owners. In 2002, women consisted just over 18%; and in 2004, 18.5% percent.¹⁰² More recently, FONTIERRAS made small improvements in this area in terms of providing land to women. In the beginning of 2012,

¹⁰¹ FONTIERRAS, “Mecanismos y Avances institucionales en la observancia y aplicabilidad de los Derechos Humanos de Comunidades Indígenas,” 2012: 13.

¹⁰² Programa de las Naciones Unidas para el Desarrollo (PNUD) Guatemala, “Estado para el Desarrollo Humano: Informe Nacional de Desarrollo Humano 2009-2010,” 287.

land acquisition according to sex became nearly equal, at almost 50% each. This improvement was, however, short-lived since shortly thereafter the entire program was suspended.

Of the 95,034.72 hectares which have been purchased with the assistance of FONTIERRAS, the majority of the land has been unfit for productive, agricultural activities. According to Granovsky-Larsen, the majority of farms sold through FONTIERRAS are found in two areas of Guatemala that are largely unsuitable for farming. For example, 35% of farms which have been sold are on the south-west coast (See Figure 3). This was once some of the most productive land in Guatemala, used for commercial agriculture; now, it is characterized by chemically-exhausted soil and neglected coffee plantations.¹⁰³ Indicative of the poor quality of land being sold is the fact that many farms purchased through FONTIERRAS had already been abandoned by their previous owners.¹⁰⁴

¹⁰³ Granovsky-Larsen, "Between the Bullet and the Bank: Agrarian Conflict and Access to Land in Neoliberal Guatemala," 330.

¹⁰⁴ The World Bank, "World Bank Support to Land Administration and Land Redistribution in Central America Report No.: 55341," 102.

Figure 3: Territorial Distribution of Fincas Bought by the Land Fund

Distribución territorial de Fincas compradas por el Fondo de Tierras



Source: FONTIERRAS, “Mapa de Cobertura: Distribución territorial de Fincas compradas por el Fondo de Tierras,” 2012.

In addition to purchased land being of poor quality, 31% of farms which were sold, through FONTIERRAS, in the northern lowlands, had limited infrastructure and no access to needed markets and services.¹⁰⁵ In 2002, 56% percent of beneficiaries interviewed by CONGCOOP said they had insufficient access to markets to sell their crops. One farm, for example, El Desconsuelo, had no access to water, making irrigation impossible. It was accessible only by an 8-kilometre foot path and was situated on slopes of 45 degrees, making its soil susceptible to erosion. El Desconsuelo was also purchased at an overvalued price. Due to

¹⁰⁵ Granovsky-Larsen, “Between the Bullet and the Bank: Agrarian Conflict and Access to Land in Neoliberal Guatemala,” 330.

these circumstances, the peasants who purchased the land could not achieve the productivity needed to repay their debts. Even when infrastructure has existed, it has been reported that small farmers have sometimes been forced to abandon their land due to a combination of physical threats and "encirclement" (involving denial of access to farm-to market roads).¹⁰⁶

Another farm, acquired in 2004 by 52 families in the municipality of Champerico had land that was so poor in quality that, in addition to being unable to make their debt payments, the new owners were experiencing "extreme poverty." According to one farmer, the community was "living in extreme poverty because the estate...[was] not suitable for basic grains and vegetables that allow the survival of the people who inhabit that territory." In this case, the farm that was purchased was polluted by the previous owner who grew cotton.¹⁰⁷

Beneficiaries' ability to repay FONTIERRAS for their loans and achieve profitability has also been conditioned by the high price beneficiaries have paid for land. As a result of high demand for land, low supply, and inequality in the negotiation process, the price for land which beneficiaries paid, was often higher than any realistic assessment of "fair" market value. This put the majority of beneficiaries into positions where they could not repay their loans and have lost the land they recently acquired. In 2002, 60% of beneficiaries were using their subsidies for payments towards their debt.¹⁰⁸ And in 2005, CNOC reported that at least 40% of farmers were having difficulty making their loan repayments.¹⁰⁹ According to CONGCOOP, by 2002, the

¹⁰⁶ The World Bank, "World Bank Support to Land Administration and Land Redistribution in Central America Report No.: 55341," 104.

¹⁰⁷ Comité de Unidad Campesina (CUC), "Extrema Pobreza Obliga a Campesinos y Campesinas Solicitar al FONTIERRAS Rediscutir la Deuda Agraria," lunes, 27 septiembre 2010. http://www.cuc.org.gt/es/index.php?option=com_content&view=article&id=252:extrema-pobreza-obliga-a-campesinos-y-campesinas-solicitar-al-fontierras-rediscutir-la-deuda-agraria.

¹⁰⁸ CONGCOOP, "FONTIERRAS: El modelo de mercado y el acceso a la tierra en Guatemala: Balance y Perspectivas," 2002, 16.

¹⁰⁹ CNOC, "Propuesta de Reforma Agraria Integral," 20.

majority of farms purchased had not yet achieved profitability.¹¹⁰ Even in 2006, 8 years after the first farms were acquired and after years of free technical service and subsidies, the WB reported that average land productivity had not yet increased. The WB explained that they believed profitability had not yet been achieved due to a lack of technical assistance and a lack of capital investment to restore land productivity. They expected that over more time, the productivity of land would improve, but in a small number of cases the levels of land productivity would not be sufficient to cover the requirements for repayment of land purchase credits.¹¹¹ But this was not the case. By April 25, 2011, 14,000 families, over half of the total beneficiaries, from 139 farms, failed to make payments on their debt, which then totalled over 333.9 million Quetzales.¹¹² This debt was one of the motivations for the Indigenous Peasant and Popular March when tens of thousands of Guatemalans marched 214 kilometres to the capital to voice their demands for farm-debt cancellation and an end to forced evictions in March of 2012.¹¹³

Despite the MLAR's supposed ability to limit corruption by removing the state from the reform process, FONTIERRAS has been accused of and found guilty of corruption on several occasions. The majority of these allegations have been related to the purchasing of overpriced farms. On July 7, 2003, *La Prensa Libre* reported on an alleged corrupt purchasing of several overpriced farms using FONTIERRAS credit (Finca La Cresta, EI Estor, Izabal; and Finca EI

¹¹⁰ CONGCOOP," FONTIERRAS: El modelo de mercado y el acceso a la tierra en Guatemala: Balance y Perspectivas," 2002, 11.

¹¹¹ World Bank, "Implementation Completion and Results Report on a Loan in the Amount of US\$23 Million to the Republic of Guatemala for a Land Fund Project 2006," 5, 6, 9.

¹¹² Enrique García, "Impulsan ley para condonar deuda agraria: URNG quiere exonerar a campesinos del pago de préstamos," 25 Abril 2011 in *elPeriodico*, <http://www.elperiodico.com.gt/es/20110425/pais/194495/>; Sanra Valdez, "Juramentan a nuevo gerente del Fondo de Tierras," 21 Marzo 2012 in *La Prensa Libre*, http://www.prensalibre.com/noticias/justicia/Eligen-nuevo-gerente-Fontierras_0_667133541.html.

¹¹³ "Marcha indígena llega a ciudad de Guatemala," *el diario* 27 marzo 2012, <http://eldiarioony.com/2012/03/27/marcha-indigena-llega-a-ciudad-de-guatemala/> (Accessed October 21, 2016).

Desconsuelo, Cahabon, Alta Verapaz). Again, on March 22, 2004, the same paper reported on corrupt deals between FONTIERRAS officials and landowners to sell farms at inflated prices using “bogus documents” (Finca Los Andes, San Luis, Peten). Because of these allegations, FONTIERRAS set up the Control and Verification Commission (*Comisión de Control y Verificación*) that same year. Despite this new commission, corruption continued within FONTIERRAS. In 2006, for example, the Constitutional Court ruled in favor of a landowner in San Luis, Petén whose farm was sold by FONTIERRAS even though he had not put it on the market.¹¹⁴

It is a bit more difficult to determine to what extent the reform has affected those in poverty, which was, of course, the WB’s main selling-point for the MLAR. What we do know, however, is that many who received land through the program, also became poorer as a result of the debt they assumed. In 2003, the WB reported that 79% of families on land sold by FONTIERRAS lived in extreme poverty and a further 17% in non-extreme poverty.¹¹⁵ It is also impossible to isolate the reform from other factors, so as to measure its effect on poverty nationally. Again, what we do know is that poverty has increased both proportionately and in total in Guatemala during the time the Access to Land Program operated. In 2006, 51% of Guatemalans lived below the poverty line and in 2014 the percentage had grown to 59%.¹¹⁶

¹¹⁴ The World Bank, “World Bank Support to Land Administration and Land Redistribution in Central America Report No.: 55341,” 119.

¹¹⁵ Granovsky-Larsen, “Between the Bullet and the Bank,” 329.

¹¹⁶ The World Bank, “Guatemala: Poverty headcount ratio at national poverty lines (% of population),” <http://data.worldbank.org/indicator/SI.POV.NAHC/countries/GT?display=graph>

Inherent Limitations, Insufficient Capacity, Deficient Implementation, and Unfavorable Conditions

What explains the limited success of FONTIERRAS? And what explains the enormous indebtedness created by this program? Indeed, much of the reform's outcomes can be attributed to the MLAR's basic assumption that land is solely an economic factor of production, overlooking all social, political, religious, environmental, ethnic, and rights-based considerations. But these inherent limitations were also compounded by less obvious reasons: FONTIERRAS' insufficient capacity, deficient implementation, and unfavorable conditions.

First, FONTIERRAS' limited ability to redistribute land or affect poverty rates can be partly explained by its dependence on voluntary land transfers. In Guatemala, land is extremely valuable. In addition to providing subsistence, land provides power, security, status, and personal and family meaning.¹¹⁷ Due to low land taxes, landowners have had few incentives to sell their land.¹¹⁸ Since 1936, underutilized and idle, large, landholdings have been legally subject to taxation, but due to an inability/unwillingness to pass legislation and implement higher taxation or enforce existing legislation, the taxation of land has been unable to encourage voluntary land sales.¹¹⁹ As a result, only a small number farms were voluntarily placed on the market.

Also conditioning the Land Fund's ability to facilitate access has been its limited capacity to function as required. Many organizations have reported that The Land Funds' budget was much too small. In 2009, the Guatemalan newspaper, *elPeriodico*, reported that FONTIERRAS

¹¹⁷ Wittman and Laura Saldivar-Tanaka, "The Agrarian Question in Guatemala," 24.

¹¹⁸ Lahiff, Saturnino M. Borrás, Jr., Cristobal Kay, "Market-Led Agrarian Reform: Policies, Performance and Prospects," 1422.

¹¹⁹ Wittman and Laura Saldivar-Tanaka, "The Agrarian Question in Guatemala," 37.

not only had insufficient funds to provide credit, but they could not pay their employees. Well after a month of work, employees had not received compensation due to budget constraints.¹²⁰

Several independent assessments, throughout the programs' operations, have also brought to light FONTIERRAS' frequent failure to deliver information, subsidies, and technical assistance to its beneficiaries in a timely matter. In CONGCOOP's 2002 study of the reform which involved beneficiary interviews, 35% percent of beneficiaries interviewed were unsure about information related to their incurred debt, 47% had no accurate information regarding interest amounts, and 46% were unsure about payment deadlines.¹²¹ According to the same report, in 1998, subsidies were delivered, on average, 7 months after land was purchased. By 2001, subsidy delays improved, but remained late, averaging a delay of 4 months.¹²²

Insufficient and changing commitment to the program has also had an impact on its success. In the program's first few years, the Minister of Agriculture was replaced 6 times, causing significant changes and policy reversals affecting "the implementation of the Land Fund and compromising its longer-term strategies and sustainability," according to the WB.¹²³

Existing conditions throughout Guatemala have also impeded FONTIERRAS' success. Drought and the international coffee crisis that began in 1999-2000 had a significant impact on the income of coffee farmers, making it difficult for farmers to repay their loans and make the required productive investments.¹²⁴ As such, FONTIERRAS' success has also been dependent

¹²⁰ Alejandro Pérez, "Fontierras no tiene recursos para funcionar este año," 2009, in *elPeriodico*. <http://www.elperiodico.com.gt/es/20090210/pais/90376/>.

¹²¹ CONGCOOP, "FONTIERRAS: El Modelo de Mercado y el Acceso a la Tierra en Guatemala. Balance y Perspectivas," 17.

¹²² *Ibid.*, 16-17.

¹²³ World Bank, "Implementation Completion and Results Report on a Loan in the Amount of US\$23 Million to the Republic of Guatemala for a Land Fund Project 2006," 11.

¹²⁴ *Ibid.*, 10.

on strong agricultural prices. In 2006, Guatemala signed on to the Dominican Republic–Central America Free Trade Agreement (DR-CAFTA). This free trade agreement opened-up new competition in agricultural markets, resulting in a reduction in the prices of many crops and a loss of 40,000-125,000 agricultural jobs in Guatemala.¹²⁵ Earlier structural adjustment programs, also had a negative effect on farmers during the MLAR, since previously available government assistance from the public agricultural sector had been eliminated. Reduced government spending has also restricted the government’s ability to facilitate the acquisition of land by other means. As a result, FONTIERRAS’ became one of the main methods for acquiring land, and was overrun with demand.¹²⁶

In response to the growing debt, the unsustainability of the program, and accusations of corruption, FONTIERRAS rejected an additional loan from the WB and suspended its Access to Land Program recently, shifting their focus instead, to their Land Leasing Program.

Conclusions

The Access to Land Program has, in no way, achieved what it set out to do. FONTIERRAS indeed facilitated the purchasing of land for thousands of Guatemalans, but not for the poor and not for women. Moreover, despite the WB’s claims that the MLAR was more efficient at distributing land than state-led reforms, the Guatemalan case proved otherwise. In regard to total demand for land and in comparison to the reform of 1952-1954, this MLAR has

¹²⁵ Coordinadora Nacional de Organizaciones Campesinas de Guatemala (CNOG), “Propuesta de Reforma Agraria Integral,” 2005: 32.

¹²⁶ CONGCOOP, “FONTIERRAS: El Modelo de Mercado y el Acceso a la Tierra en Guatemala Balance y Perspectivas,” 11.

had only marginal results. Due to low taxes on idle land and the voluntary nature of the model, there have been insufficient incentives for landowners to sell their land. Those who have sold, have sold mainly unfit land that was already abandoned or found in isolated locations without access to services. FONTIERRAS' limited capacity, deficient implementation, and corruption further reduced the success of the program by allowing farms to be purchased at excessively high prices. External processes such as trade liberalization and low agricultural prices also did not help beneficiaries. Because of these combined circumstances, many peasants have been unable to achieve subsistence, let alone the productivity required to repay the loans they received from FONTIERRAS. In sum, attempting to affect land distribution by improving access to land via the provision of credit and financial and technical assistance has not brought about the expected outcomes. The Access to Land Program has only allowed for the conditional and temporary access to low-quality land for few Guatemalans which has come at the cost of huge beneficiary indebtedness, increased poverty, and the suspension of the Access to Land Program altogether.

CHAPTER 3 Legal Displacement and the Solidification of Historical Inequalities: FONTIERRAS' Land Regularization Program

Introduction

Another essential component of the MLAR model is land title regularization which, according to FONTIERRAS, is the process of analysing, reviewing, mapping, and awarding land title for existing land ownership.¹²⁷ This has been executed through cadastral surveying, developing a legal, land title registry, and simplifying land registration procedures. Land regularization does not redistribute land or improve access to land directly. In most cases, people who have obtained land titles through the program were not new landowners, but people already living on those lands for which they received title. Land title regularization is, however, believed to improve tenure security, and in doing so, improve the functioning of the land market, leading to more simplified land transfers, better land distribution, economic development, poverty alleviation, and a reduction in land-related conflicts. These presumed outcomes of land regularization were consistent with the GoGs' priorities during the peace negotiations, and because of this, legal reform and the titling of land were mandated in the 1996 Peace Accords. This chapter focuses on two particular aspects of land regularization: rural land surveying and rural land titling which was overseen by FONTIERRAS through its State Land Regularization Program (Programa de Regularización de Tierras del Estado). Between the years of 2000 and

¹²⁷ FONTIERRAS, "Memoria de Labores Fondo de Tierras 2014," 21
<http://www.fontierras.gob.gt/portal/viewer/index/a36N> (Accessed October 21, 2016).

2011, FONTIERRAS issued 19,254 rural land titles which covered 737,337 hectares of land in Guatemala.¹²⁸

This chapter begins by exploring the origins and evolving motives of land regularization in order to understand how it became an important component of the MALR. The results of the program are then presented and examined against the assumptions which justified the model. Over the course of 11 years, The Land Regularization Program titled a significant amount of rural land in Guatemala, but rather than providing tenure security and reducing poverty and conflict, the program has facilitated further displacement and the re-concentration of land.

The World Bank, Land Titling, and the Peace Accords

Since the 1970s, land titling has been an important development strategy in the Global South. On many occasions, the WB has taken an active role in promoting this strategy. Throughout the 70s and 80s, when the WB began its shift from project funding (eg: dams, highways, power plants) to policy funding, the WB funded many land titling programs in countries such as Colombia, Brazil, Thailand, and Malawi. At this time, these programs were carried out with objectives of preventing the environmental degradation of common land.¹²⁹ Two works, in particular, influenced the WB and their policies by reframing the problem of communally held land from being one of “underproduction” to one of “exploitation.” H. Scott

¹²⁸ FONTIERRAS, “Mecanismos y Avances institucionales en la observancia y aplicabilidad de los Derechos Humanos de Comunidades Indígenas,” 2012, 8.

¹²⁹ McMichael, *Development and Social Change: A Global Perspective Fourth Edition*, 155.; Daniel Wachter and John English, “The World Bank’s Experience with Rural Land Titling”; *The World Bank Environment Department Divisional Working Paper No. 1992-35 Policy and Research Division* (1992): 1.

Gordon's 1954 "The Economic Theory of a Common Property Resource: The Fishery" and Garrett Hardin's 1968 "Tragedy of the Commons" both made the case that communal resources inevitably lead to over-exploitation and degradation.¹³⁰ Although Gordon wrote about a particular common resource—the fishery—he argued that all communally-owned natural resources would be exploited as a result of individualistic competition.¹³¹ These two arguments, although completely speculative, inspired 30 years of land privatization programs which were implemented to prevent what was presumed to be the inevitable "tragedy of the commons".

By the 1990s, environmental concerns (although not forgotten) were overshadowed by economic concerns. Influenced by the return to liberalism, land titling was reframed as a precondition for stable economic development. The privatization of land was believed to allow for land to be better and more efficiently used. Evidence of this shift in justification can be seen in the WB's land titling programs of the 1990s. At this time the Bank assured that land titling would reduce the cost of land transactions, provide security for credit, support land and property taxation, and increase investment into land, thereby facilitating growth and development.¹³²

Again in 2000 another transformative piece, re-legitimized and stimulated an acceleration of land titling programs to such an extent that this period has been called "the property revolution" or even "the de Sotoan revolution."¹³³ In 2000, Hernando de Soto published *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* which built on his earlier work *The Other Path: The Economic Answer to Terrorism*. In these works,

¹³⁰ Garrett Hardin, "The Tragedy of the Commons," *Science, New Series*, 162, no. 3859 (Dec. 13, 1968): 1243-1248; H. Scott Gordon, "The Economic Theory of a Commonproperty Resource: The Fishery," *The Journal of Political Economy* 62, no. 2 (Apr., 1954):

¹³¹ Gordon, "The Economic Theory of a Commonproperty Resource: The Fishery," 124.

¹³² The World Bank, "Land Registration and Land Titling Projects in ECA Countries," 1996: 1.

¹³³ Nancy Lee Peluso and Christian Lund, "New frontiers of land control: Introduction," *The Journal of Peasant Studies*, 38 no. 4 (2011): 672.

de Soto claimed a direct correlation between property ownership and wealth, emphasizing that insecure property rights weaken the incentives for owners to make long-term investments and impede landowners' ability to use their property to secure loans to finance investment. Without access to credit and an ability to invest in land, economic growth and development would be impossible.¹³⁴

Most recently, the purported benefits of land titling have expanded to include poverty alleviation and conflict reduction. Inspired by these ideas, land titling programs have been promoted by the WB and international development agencies on these grounds as well.

According to the WB:

Land is a critically important asset that underpins most economic activities. Land use and land rights are central to the work of the World Bank Group and to eradicating poverty, building shared prosperity, and fostering private investment and gender equality.

In recent years, there has been increasing awareness of the relevance of land tenure issues to food security, climate change, rapid urbanization, informality and indigenous people's rights.¹³⁵

Similar rationale, which presumes land regularization promotes development and protects peasants was also incorporated into the Agreement on the Socio-economic Aspects and Agrarian Situation:

37. Guatemala is in need of reform of the juridical framework of agriculture and institutional development in the rural sector so that an end can be put to the lack of protection and dispossession from which small farmers, and in particular indigenous peoples, have suffered, so as to permit full integration of the rural population into the

¹³⁴ Hernando de Soto, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (New York: Basic Books, 2000). And Claudia R. Williamson, "The Two Sides of de Soto: Property Rights, Land Titling, and Development," *The Annual Proceedings of the Wealth and Well-Being of Nations* (2011): 95. Hernando de Soto, *The Other Path: The Economic Answer to Terrorism* (New York: Basic Books, 1989).

¹³⁵ Caroline Heider, "Why Land Administration Matters," World Bank Publication, June 28, 2016, <https://ieg.worldbankgroup.org/blog/why-land-administration-matters-development-why-land-administration-matters>. (Accessed October 19, 2016).

national economy and regulate land use in an efficient and environmentally sustainable manner in accordance with development needs. To this end, and taking into account in all cases the provisions of the Agreement on Identity and Rights of Indigenous Peoples, the Government undertakes to:

- a) Promote a legal reform which will establish a juridical framework governing land ownership that is secure, simple and accessible to the entire population. This reform will need to simplify the procedures for awarding title and registering ownership and other real estate rights, as well as to simplify administrative and judicial formalities and procedures....
- g) Regulate the award of title to the lands of indigenous communities and beneficiaries of the Guatemalan Institute for Agrarian Reform who are in lawful possession of the land assigned to them.¹³⁶

FONTIERRAS and the State Land Regularization Program

In 1999, FONTIERRAS began its mandate to survey and title rural land through its Land Regularization Program. The funding for these programs came from the IBRD, a WB Institution under the title of The Land Fund Project (IBRD Loan No. 4432). Separate land titling programs occurred alongside the Land Regularization Program such as the WB-supported Land Administration Project (IBRD Loan No.4415) which operated primarily in Petén and a separate land titling program which focused on urban land titling. These projects were said to be separately funded and implemented so as to generate more accurate information. FONTIERRAS was responsible not only for issuing title, but for adjudicating applications for title through a lengthy process which included: reviewing required documents (identification, birth certificates etc.), determining that there were no existing boundary disputes, inspecting the land, surveying

¹³⁶ Agreement on Social and Economic Aspects and Agrarian Situation concluded on 6 May 1996 between the Presidential Peace Commission of the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, Section III, Article 37, Paragraph a, g.

the land, and then registering the land.¹³⁷ Special attention, within the program, was to be given to both women and indigenous peoples who were traditionally excluded from the land ownership.

In 1998, when the land titling initiative began, it was reported that only 30% of the Guatemala's properties were registered, though the majority of these properties were located in urban areas. According to USAID, only 5% of land in rural Guatemala had been registered by this time.¹³⁸ Many factors explain this, including the absence of a legal framework for a national cadastre, a poorly functioning and highly centralized Registro General de Propiedad (RGP) which was established during the colonial era and was never modernized, and the preference for informal land transfers without proper registration due to the land transfer process being complex, expensive, and excessively bureaucratic for both sellers and buyers.¹³⁹

Over the course of 11 years, from 2000-2011, FONTIERRAS issued 19,254 titles, covering 737,337 hectares of land.¹⁴⁰ Titles were issued to both individuals and groups with 17,992 land titles issued to individuals and 1,262 land titles issued to groups. In total, 60,418 families received titles to their land through the program. Both women and men equally partook in the program, seen both by number of total applicants as well as in the number of individual titles provided to women in comparison to just men. According to FONTIERRAS, 64% of the

¹³⁷ Sean Tanner, "Lawless Lands: A Case Study of Land Titling in Rural Guatemala," *Middle States Geographer* 42 (2009): 93.

¹³⁸ United States Agency for International Development, "Guatemala: Property Rights and Resource Governance," 2012: 6; The World Bank, "Implementation Completion and Results Report (IBRD-44150) on a Loan in the Amount of US\$31.0 Million to the Republic of Guatemala for a Land Administration Project," 2007: 1.

¹³⁹ Land Research Action Network, "Backgrounder Part II: The Agrarian Question in Guatemala," 2003: 7; Susana Lastarria-Cornhiel, "Guatemala Country Brief: Property Rights and Land Market," 8.

¹⁴⁰ FONTIERRAS, "Mecanismos y Avances Institucionales en la Observancia y Aplicabilidad de los Derechos Humanos de Comunidades Indígenas," 2012: 8.

total *number of titles* issued, were issued to indigenous individuals or groups.¹⁴¹ But in terms of total individuals who received title, indigenous recipients constituted 86% of the total population. This can be explained by the fact that more collective titles were given to indigenous applicants, allowing for more indigenous families to receive title through the program. In regard to total hectares titled to indigenous and non-indigenous beneficiaries, 91% of the total land titled through this project was titled to indigenous persons.

In light of the objectives of the program, the Land Regularization Program has achieved only a fraction of their land titling goals. Quantitatively, their goal was to title 50% of the country by 2013.¹⁴² Yet, by 2010, only 3% of the target area was titled.¹⁴³ In contrast, the program has been much more successful with respect to their cadastral surveying goals. By 2010, 64% of the target for cadastral surveying in rural areas was met. Though the program has not yet achieved its primary quantitative goals, to what extent has the limited land regularization which has occurred produced its expected outcomes?

False-Assumptions and Unmet Objectives

The Land Regularization Program was implemented with the expectation that it would resolve problems and achieve specific goals. As mentioned, these goals were increased access to credit for land owners, a reduction in conflict, growth, and increased tenure security. It is important to note that is difficult to determine the extent to which the Land Regularization Program has produced these outcomes since neither the WB nor FONTIERRAS made adequate

¹⁴¹ Ibid., 8.

¹⁴² United States Agency for International Development, “Evaluación del Programa de Regularización de la Tenencia de la Tierra con Financiamiento de la USAID,” 2003: 6.

¹⁴³ The World Bank, “World Bank Support to Land Administration and Land Redistribution in Central America Report No.: 55341,” 70.

provision for impact evaluation.¹⁴⁴ Overall, the WB reported that the outcomes of the Land Regularization Program were “moderately unsatisfactory” stating that one of the “lessons learned” was that assumptions regarding the benefits of land titling need to be examined and tested with empirical evidence.¹⁴⁵ The following analysis utilizes what data is available to evaluate the programs’ performance against land regularization’s purported benefits.

Although the Land Regularization Program was meant to “simplify the procedures for awarding title and registering ownership,” the new application process was not especially simple or financially accessible for applicants. According to USAID, the high up-front cost of this process was a significant barrier for applicants. In addition to the substantial cost and time needed to gather documents required for the application, applicants also had to also pay notary fees and fees to register their land.¹⁴⁶

Land titling was also implemented under the assumption that possessing a title to land would improve a landowner’s access to credit. Although the rationale correctly acknowledges that banks require capital to secure loans, it assumes that peasants do not already have their own well-developed systems of credit-supply.¹⁴⁷ Moreover, the provision of land title alone does not necessarily improve access to credit. Additional factors, including interest rates, also affect access to credit from banks. During the program’s operations, Guatemalan Banks had interest rates that were ranging from 18 to 26%, per year (usurers’ rates were as high as 120% in 2011). Regardless of landowner’s acquisition of legal title to their land, interest rates either inhibited peasants from applying for credit altogether, or led to many losing their land when they were

¹⁴⁴ The World Bank, “World Bank Support to Land Administration and Land Redistribution in Central America Report No.: 55341,” 22.

¹⁴⁵ *Ibid.*, x.

¹⁴⁶ United States Agency for International Development, “Evaluación del Programa de Regularización de la Tenencia de la Tierra con Financiamiento de la USAID,” 15.

¹⁴⁷ Powelson, *The Peasant Betrayed*, 5.

unable to cope with the debt.¹⁴⁸ Evidence also suggests that a lack of title may not have limited peasants' access to credit originally. Additional data on this subject comes from Francisco J. Perez, who between 2002 and 2003, surveyed 48 families in Alta Verapaz who received land titles from FONTIERRAS. His research concluded that prior to having title, the lack of title had not impeded these families' access to credit and that, after title was received, there was a reduction in access to credit because credit terms had become less favorable.¹⁴⁹ Although processing title to land has the potential to increase a landowner's access to credit, the provision of land title alone did not necessarily result in improved access to credit for those who received title through the Land Regularization Program.

Land titling, as part of an MLAR, was also assumed to be more peaceful than state-led reforms. Furthermore, it was believed that titling land would reduce conflicts generated by unclear tenure.¹⁵⁰ Again, it is difficult to measure to what extent the reform has affected land-related conflicts because the collection and analysis of land dispute data is a relatively new phenomenon in Guatemala. In 1997, the Presidential Land Office for Conflict Resolution (CONTIERRA), was created, and since then, this office has worked to monitor and mediate land-related conflicts. CONTIERRA characterizes land disputes as either: "Disputes over

¹⁴⁸ The World Bank, "World Bank Support to Land Administration and Land Redistribution in Central America Report No.: 55341," 5; Alberto Alonso-Fradejas, "Contemporary Land Grab-Agrarian Change from a Multiple Politics Perspective: Insights from Guatemala," *Land Deal Politics Initiative*, 2013. http://www.iss.nl/fileadmin/ASSETS/iss/Research_and_projects/Research_networks/LDPI/LDPI_WP_51.pdf

¹⁴⁹ The World Bank, "World Bank Support to Land Administration and Land Redistribution in Central America Report No.: 55341," 7, citing F.J. Perez, "Effects of land legalization in the agrarian dynamics of the indigenous communities of Alta Verapaz, Guatemala," 2005. [Master's Thesis] Center for International Studies, Ohio University, June.

¹⁵⁰ The World Bank, "Implementation Completion and Results Report (IBRD-44150) on a Loan in the Amount of US\$31.0 Million to the Republic of Guatemala for a Land Administration Project," 2007: 1.

Competing Property Rights,” “Occupations of Property Legally Owned by Another,” or “Boundary Disputes.”¹⁵¹

According to CONTIERRA, during the reform, the number of reported land disputes rose sharply from less than 100 in 1997 to almost 700 reported cases in 2006 (see Figure 4). Although these land disputes were not as widespread as witnessed during the civil-war, there has been a significant increase in localized, land disputes. By 2003, it was reported that active disputes had reached 2077 cases.¹⁵² Though CONTIERRA indicates that registered land conflicts increased during FONTIERRAS’ operations, it could actually be that the number of cases of conflict over land remained constant (or were even in decline) over this period. Nevertheless, key land experts have stated that the total number of registered land disputes has been understated, suggesting that tens of thousands of additional disputes remain latent or unregistered.¹⁵³

Still, an increase in reported land disputes is not necessarily a negative outcome of the MLAR, since it has allowed the opportunity for these land disputes to be addressed. By March 2007, CONTIERRA reported that they had resolved 88% of the rural land conflicts which were registered.¹⁵⁴ At first glance, the resolution of land disputes appears to be a success, but according to USAID, the majority of the land disputes resolved by CONTIERRA were achieved through land purchases, especially via FONTIERRAS, which has not been a sustainable resolution to land conflicts, and, as indicated in the previous chapter, is an approach which has caused widespread beneficiary debt.¹⁵⁵ What we also know is that some land disputes registered

¹⁵¹ USAID, “Guatemala Land Conflict Assessment,” 2005: 4-5.

¹⁵² *Ibid.*, 3.

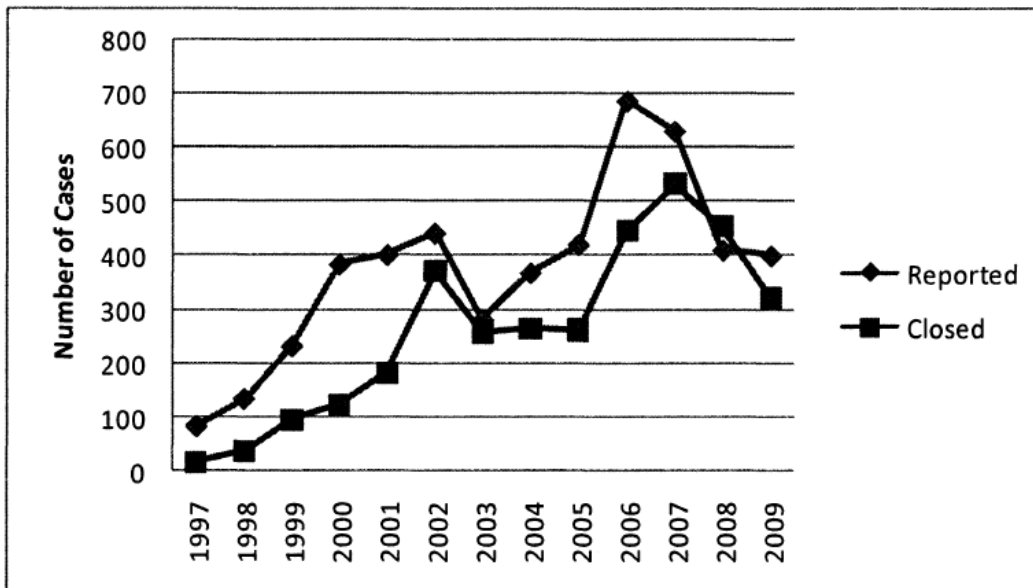
¹⁵³ The World Bank, “World Bank Support to Land Administration and Land Redistribution in Central America Report No.: 55341,” 8.

¹⁵⁴ *Ibid.*, 71.

¹⁵⁵ USAID, “Guatemala Land Conflict Assessment,” 2005: 10.

with CONTIERRA were a direct result of the Land Regularization Program. According to the WB, at least 15% of conflicts reported to CONTIERRA were triggered by the regularization process itself.¹⁵⁶

Figure 4: Reported Cases of Land Conflict in Guatemala (January- October 2009)



Source: The World Bank, “World Bank Support to Land Administration and Land Redistribution in Central America Report No.: 55341 An IEG Performance Assessment of Three Projects: El Salvador, Land Administration Project (Loan No. 3982) Guatemala, Land Administration Project (Loan No. 4415) Guatemala, Land Fund Project (Loan No. 4432) June 30, 2010,” 8. Based on data from Secretaria de Asuntos Agrarias January-October 2009.

State-sanctioned violence and evictions against those opposing the rapid accumulation of land, owing, in part, to the MLAR, has also increased recently. Although there has not been an extensive study on land evictions, a study by Camilo Salvadó of the AVANCSO research

¹⁵⁶ The World Bank, “World Bank Support to Land Administration and Land Redistribution in Central America Report No.: 55341,” 72.

institution suggests that the government of President Álvaro Colom carried out 99 violent evictions between 2008 and 2010.¹⁵⁷

One particularly, well-known, eviction took place in 2011 in the Polochic Valley of Panzós, Alta Verapaz. Prior to this eviction, this area was populated by Q'eqchi' families who were in negotiations to buy the land their families had farmed for centuries with the assistance of FONTIERRAS. In 2010, the Widdmans Family, placed a higher bid for the same land and were successful in purchasing the 5,400 hectares for the "Chabil Utzaj" sugar mil. Because the local indigenous communities believed they had a right to live and work on the land, they occupied 14 of the estates in November of 2010. In March of 2011, Guatemalan soldiers and police, reportedly numbering over 2000, forcefully evicted 700 families from the contested land, destroying homes with chainsaws. Houses and crops were burned and 3 farmers were killed.¹⁵⁸

Similar violent evictions have been carried across Guatemala, especially in Alta Verapaz and surrounding the Fenix nickel mine in El Estor. In 2006 and 2007, families were forcibly evicted from their homes on contested land surrounding the nickel mine. The Canadian mining company responsible for these violent evictions, Hudbay Minerals, is still involved in ongoing lawsuits in Canadian courts regarding the brutal killing of Adolfo Ich Chamán, in 2009 and the raping of 11 women from Lote Ocho by mining company personnel during a forced eviction in 2007.¹⁵⁹

¹⁵⁷ Granovsky-Larsen, "Within and Against the Market," 110.

¹⁵⁸ Jennifer Franco, Saturnino Borrás Jr., Alberto Alonso-Fradejas, Nick Buxton, Roman Herre, Sylvia Kay, and Timothé Feodoroff, "The Global Land Grab," *Transnational Institute*, 2013: 9.

¹⁵⁹ Klippensteins Barristers & Solicitors, "Choc v. Hudbay Minerals Inc. Caal v. Hudbay Minerals Inc.," 2016. <http://www.chocversushudbay.com/> (Accessed September 2016); Hudbay, "About Illegal Land Occupations," 2016. <http://www.hudbayminerals.com/English/Responsibility/The-Facts-CGN-and-Hudbay-in-Guatemala/About-Illegal-Land-Occupation/> (Accessed September 2016).

Besides violent evictions, indigenous groups and social organizations have been increasingly repressed, criminalized, and murdered for their opposition to continued displacement and forced evictions. The CUC, for example, an organization which represents over 200 communities, and advocates for rights to land, water and food sovereignty for impoverished peasant communities, has suffered many attacks and over 44 assassinations of its members between 2000 and 2014.¹⁶⁰ In sum, land regularization has probably not led to a reduction in land-based conflicts and in some ways has actually contributed to increased violence in Guatemala.

Land registration and titling have long been seen as an important mechanism for increasing tenure security; yet, for many who received land title, their recent formalized land ownership has only been temporary. According to information gathered by Laura Hurtado Paz y Paz and Liza Grandia, following the titling processes (and often during them) in Petén, agro-industrial companies and land speculator-intermediaries approached many of the new Q'eqchi' land owners and offered them unprecedented amounts of money for their land.¹⁶¹ Beneficiaries were left vulnerable and many who had recently received land title were pressured and intimidated by prospective buyers into selling their land. According to the testimony of a Q'eqchi' peasant from a village in el Petén:

many of those refusing to sell [were] harassed and threatened by armed-bullies working as “private security” paratroops for the agribusinesses in ways like, ‘if you don’t sell at the price we are offering you, we will have to deal with the widow

¹⁶⁰ Comité de Unidad Campesina, “Quienes Somos,” http://www.cuc.org.gt/es/index.php?view=article&catid=38%3Acuc&id=53%3Aiquienes-somos&option=com_content&Itemid=62.

¹⁶¹ Laura Hurtado Paz y Paz and Liza Grandia, “Multi-ethnic Communal and Collective Forms of Tenure in Post-war Guatemala: Lessons from the Petén,” Conference Paper at the Annual World Bank Conference on Land and Poverty, Washington, DC, 2013: 14.

instead.’¹⁶²

Many who received land titles from FONTIERRAS have also lost their land out of an inability to afford it. According to research collected by Alonso-Fradejas, when male heads-of-households were surveyed in the northern lowlands in 2010, 50% of the surveyed men who lost their land which they received official title to through the Land Regularization Program in the previous 10 years said they were “forced” to sell their land. Another 30% said they sold it because it was “useless for farming” and the rest because they were “highly indebted.”¹⁶³

As a result of being bought-out, coerced into selling, or indebted, many who received title through the Land Regularization Program no longer own their land. In the municipality of Chisec, Alta Verapaz, Hurtado Paz y Paz found that between 22% and 63% of peasants in 7 communities sold their land following the FONTIERRAS title regularization process.¹⁶⁴ On March 12, 2009, one of Guatemala’s daily newspapers *SigloXXI*, reported that according to one peasant leader from Poptún, Petén, the majority of those who received title to their land through FONTIERRAS in the 39 communities have sold their lands.¹⁶⁵ The WB discovered similar outcomes in their project evaluation, which stated that within 5 years of the project terminating, at least 46% of those who received title to their land no longer owned their land.¹⁶⁶ In sum, the titling of land alone has not led to increased tenure security, decreased violence, or an increase in access to credit for beneficiaries as expected. Instead, because of the GoG’s inability to protect

¹⁶² Alberto Alonso-Fradejas, “Contemporary Land Grab-Agrarian Change from a Multiple Politics Perspective: Insights from Guatemala,” *Land Deal Politics Initiative*, 2013: 20.

¹⁶³ Alonso-Fradejas, “Contemporary Land Grab-Agrarian Change from a Multiple Politics Perspective: Insights from Guatemala,” 5.

¹⁶⁴ Granovsky-Larsen, “Between the Bullet and the Bank,” 330.

¹⁶⁵ The World Bank, “World Bank Support to Land Administration and Land Redistribution in Central America Report No.: 55341,” 120.

¹⁶⁶ Milian Bayron and Liza Grandia, “Inheriting Inequality: Land Administration and Agrarian Structure: Petén, Guatemala,” Conference Paper Presented at the Annual World Bank Conference on Land and Poverty, Washington, D.C. (2013): 2.

beneficiaries from extra-economic coercion (e.g. physical intimidation or expropriation without compensation) or ensure that beneficiaries could maintain their land ownership sustainably, land has been legally, although not always legitimately sold, leaving peasants again without land.

Facilitating the Export Boom through Legal Displacement

Land titling was also prescribed for Guatemala due to its assumed ability to promote growth; this in fact, did occur. During Guatemala's MLAR, the economy grew nearly threefold. Between 2000 and 2014, Guatemala's GDP grew from 19.29 billion United States Dollars (USD) to just under 60 billion USD.¹⁶⁷ Much of this economic growth can be attributed to an expansion in Guatemala's agro-export economy, specifically the growth in sugar and palm oil production to meet the increasing global demand for ethanol.

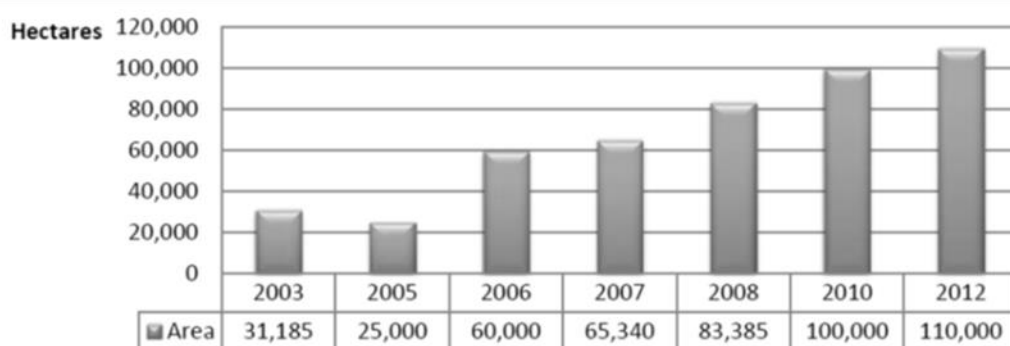
The recent growth in the global demand for ethanol has had a significant impact on land use, access to food, and land distribution in Guatemala. According to Oxfam International, the cultivated area dedicated to palm oil in Guatemala quadrupled between 2003 and 2012 from 30,000 hectares to over 120,000 hectares (see Figure 5).¹⁶⁸ This has equated to 80,000 tons of palm oil produced in 2003 to 180,000 tons in 2010 (see Figure 6). Sugar cultivation has also expanded more recently. While sugar production accounted for 3.4% of the total agricultural

¹⁶⁷ The World Bank, "GDP: Guatemala, Honduras, and El Salvador," June 2016. https://www.google.ca/publicdata/explore?ds=d5bncppjof8f9_&met_y=ny_gdp_mktp_kd_zg&idim=country:GTM:HND:SLV&hl=en&dl=en#!ctype=1&strail=false&bcs=d&nslm=h&met_y=ny_gdp_mktp_cd&scale_y=lin&ind_y=false&rdim=region&idim=country:GTM:HND:SLV&ifdim=region&hl=en_US&dl=en&ind=false (Accessed September 2016).

¹⁶⁸ Arantxa Guereña and Ricardo Zepeda, "The Power of Oil Palm: Land Grabbing and Impacts Associated with the Expansion of Oil Palm Crops in Guatemala: The Case of the Palmas del Ixcán Company," Oxfam America Backgrounder Series (2013) <http://www.oxfamamerica.org/publications/power-of-oil-palm-guatemala>, 6.

area in 1980, it has grown to utilize 14% of arable land in 2008. That same year, Guatemala became the second largest exporter of sugar in Latin America and the Caribbean and number three in the world.¹⁶⁹ In 2010, Guatemala produced 248,000 hectares of sugarcane and 102,000 hectares of oil palm.¹⁷⁰ Based on total arable land in Guatemala, which was 1,500,000 hectares in 2010, palm oil and sugarcane production together has grown to utilize roughly 30% of total arable land in Guatemala.¹⁷¹

Figure 5: Evolution of the Area Under Palm Oil Cultivation in Guatemala (2003-2012)



Source: Arantxa Guereña and Ricardo Zepeda, “The Power of Oil Palm: Land Grabbing and Impacts Associated with the Expansion of Oil Palm Crops in Guatemala: The Case of the Palmas del Ixcán Company,” Oxfam America Backgrounder Series (2013), 18.

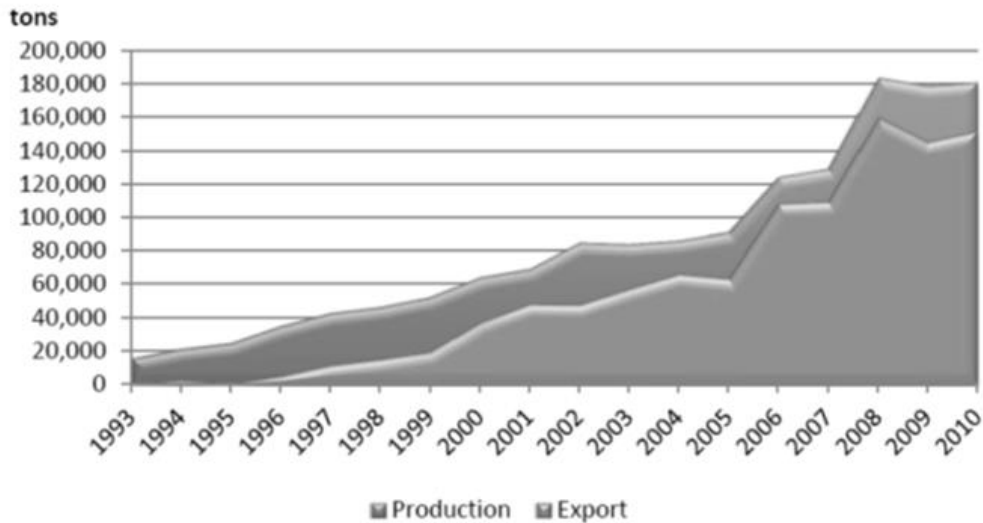
¹⁶⁹ Cecilia Niezen, “Farmers Struggle for Land in Guatemala,” Oxfam America (August 22, 2013). <http://www.oxfamamerica.org/explore/stories/farmers-struggle-for-land-in-guatemala/> (Accessed September 2016).

¹⁷⁰ Alberto Alonso-Fradejas, “‘Sons and daughters of the Earth’: Indigenous Communities and land grabs in Guatemala,” 4.

¹⁷¹ Food and Agriculture Organization, “Arable Land in Guatemala, 2010.” <http://faostat.fao.org/site/377/DesktopDefault.aspx?PageID=377#ancor> (Accessed September 2016).

Global demand for ethanol continues to drive land acquisition in Guatemala. As we can see in Figure 6, the majority of palm oil grown in Guatemala, has not been for local consumption.

Figure 6: Production and Export of Palm Oil in Guatemala (1993-2010)



Source: Arantxa Guereña and Ricardo Zepeda, “The Power of Oil Palm: Land Grabbing and Impacts Associated with the Expansion of Oil Palm Crops in Guatemala: The Case of the Palmas del Ixcán Company,” Oxfam America Backgrounder Series (2013), 18.

A few circumstances in particular have facilitated the recent accumulation of land by the agro-export industry—weak governance and the Land Regularization Program itself. Perhaps somewhat paradoxically, weak land governance has attracted recent investment in Guatemala. Although secure property rights is often asserted to be a precondition for foreign-direct

investment, IMF and WB economists have found that countries with weak land sector governance are most attractive to investors because land can be obtained quickly and cheaply.¹⁷²

The Land Regularization Program itself, has also contributed to the acceleration of land sales in Guatemala; first, because the law regulating the Land Fund eliminated provisions regarding the state's responsibility to prohibit newly-titled land from being purchased for 10 years.¹⁷³ Next, through its cadastral surveying, parcels of land became legible and land owners, visible, for the first time to outside investors. According to Scott, "land maps in general and cadastral maps in particular are designed to make the local situation legible to an outsider." For purely local purposes, cadastral mapping is often redundant.¹⁷⁴ This would seem true for Guatemala as well since surveying the countryside has benefited outsiders more than those who initially received title to their land.

Furthermore, land titling has allowed for previously inaccessible land to be available for purchase on the market. Based on research by Alonso-Fradejas, most of the land recently acquired for palm oil production in Guatemala's northern lowlands was originally titled by FONTIERRAS.¹⁷⁵ Oxfam International has also observed how FONTIERRAS has benefited palm oil producers, reporting that one of the main palm oil companies in Guatemala, Palmas del Ixcán, was encouraging FONTIERRAS to promote land titling in areas which interested them.¹⁷⁶ Undeniably, the areas of land regularization and suitable land for palm oil cultivation

¹⁷² Rabah Arezki, Klaus Deininger and Harris Selod, "Global Land Rush," *Finance and Development* 49, no.1, International Monetary Fund (2012): 47.

<http://www.imf.org/external/pubs/ft/fandd/2012/03/pdf/fd0312i.pdf> (Accessed October 23, 2016).

¹⁷³ Guereña and Ricardo Zepeda, "The Power of Oil Palm," 21.

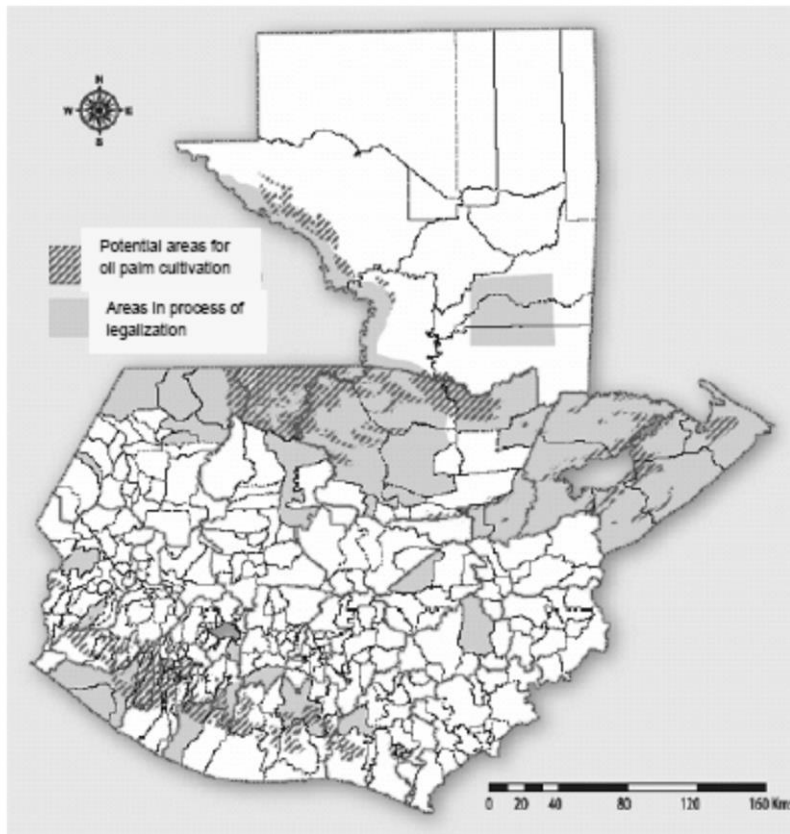
¹⁷⁴ Scott, "State Simplifications: Nature, Space and People," 215.

¹⁷⁵ Alonso-Fradejas, "Sons and daughters of the Earth," 6.

¹⁷⁶ Guereña and Ricardo Zepeda, "The Power of Oil Palm," 20.

considerably overlap, as demonstrated in Figure 7.

Figure 7: Areas of Land Regularization and Potential Land for Cultivating Palm Oil



Source: Laura Hurtado Paz y Paz, “Las plantaciones para agrocombustibles y la pérdida de tierras para la producción de alimentos en Guatemala,” [Biofuel plantations and reduction of land for food production in Guatemala] Guatemala: ActionAid Guatemala, 2008.

Inequitable Growth

While the WB believed that increased investment and the expansion of the agro-export industry would create jobs, growth and alleviate poverty, with the exception of growth, this has not yet materialized in Guatemala. Even though growth has indeed occurred, the benefits of this

growth have been highly concentrated. Only 14 companies—owned by 14 oligarchic families—make up the powerful Sugar Producers’ Guild (ASAZGUA), and control over 80% of the country’s sugar plantations and 100% of the sugar mills. Similarly, 8 families form the influential Oil Palm Growers’ Guild (GREPALMA), and control 98% of the harvested oil palm and 100% of the palm oil mills in Guatemala.¹⁷⁷

In addition to being inequitable, this growth has come at the expense of subsistence agriculture and peasant livelihoods. Throughout the period of rapid land accumulation, production of basic foods has decreased. Basic grain production per person and per year has decreased from 155 kilograms in 1993 to 125 kilograms in 2007.¹⁷⁸ Staple crops such as corn and beans have also dropped in production recently. Between 1990 and 2004, corn production decreased by 15.7% and bean production by 17.8%. Wheat and rice production also dropped 64.6% and 21.4% respectively between 1990 and 2004.¹⁷⁹ Together the palm oil businesses occupy an area in plantations equivalent to the land used by more than 60,000 subsistence farmers.¹⁸⁰ Studies from the northern lowlands have shown that the growth of export agriculture and reduction in staple crop production is more than a correlation. In this study, as much as 23% of the lands used for oil palm production in 2010 were previously owned by small cultivators to grow staple foods in 2005.¹⁸¹

¹⁷⁷ Alonso-Fradejas, “‘Sons and daughters of the Earth’: Indigenous Communities and land grabs in Guatemala,” 5.

¹⁷⁸ Guereña and Ricardo Zepeda, “The Power of Oil Palm: Land Grabbing and Impacts Associated with the Expansion of Oil Palm Crops in Guatemala: The Case of the Palmas del Ixcán Company,” 25.

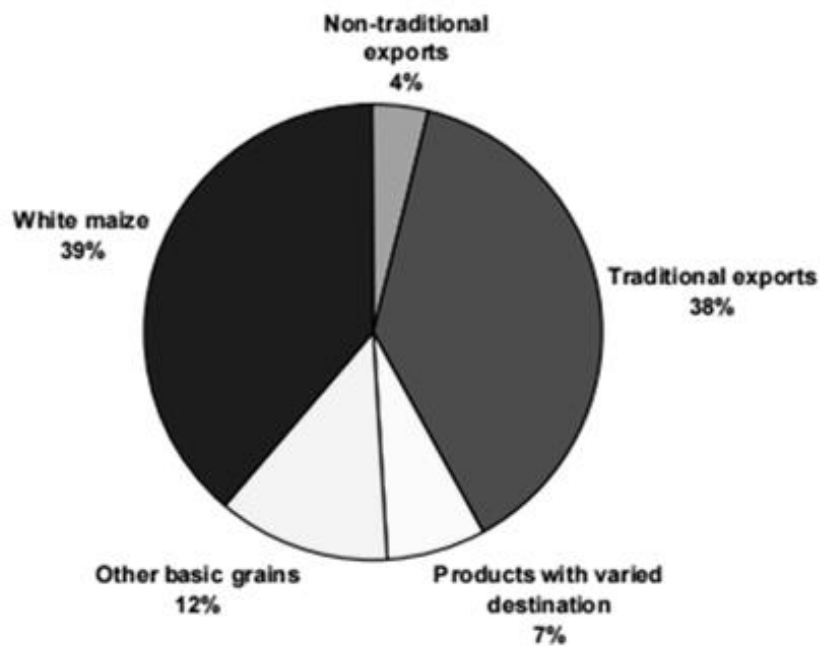
¹⁷⁹ *Ibid.*, 23.

¹⁸⁰ *Ibid.*, 25.

¹⁸¹ Alonso-Fradejas, “Contemporary Land Grab-Agrarian Change from a Multiple Politics Perspective: Insights from Guatemala,” 5.

Besides losing land and access to subsistence growing, many peasants have found themselves with less employment opportunities since palm oil plantations in Guatemala’s northern lowlands generate few jobs. Palm oil, for instance, requires 52 working days per hectare per year, as opposed to maize, which requires 112 working days.¹⁸² As seen in Figure 8, palm oil production provides some of the lowest employment opportunities when compared to traditional exports like coffee and bananas or staple crops such as maize.

Figure: 8 Employment Creation by Type of Production Cultivated in Guatemala



Source: USAID, “Optimizing the Economic Growth and Poverty Reduction Benefits of CAFTA-DR,” 2008, 95. http://pdf.usaid.gov/pdf_docs/Pnadm562.pdf (Accessed October 21 2016).

¹⁸² Alonso-Fradejas, “‘Sons and daughters of the Earth’: Indigenous Communities and Land Grabs in Guatemala,” 6.

The World Bank and Its Conflict of Interest

Although the Land Regularization Program has not met most its objectives, the MLAR in many ways has complimented and has facilitated other WB objectives. The WB is a group of institutions, lending to both private companies and public governments. While the Bank was lending to support Guatemala's MLAR which was meant to increase access to land and reduce poverty and conflict, its private sector lending arm, The International Development Association (IDA), was also lending to support mining and agro-export industries in Guatemala. Lending to these industries, according to the WB, was driven by the Bank's broader commitment to reduce poverty and promote economic development.¹⁸³ But these industries have often displaced and further impoverished Guatemalans. And in some cases, these industries have directly impeded the MLAR's success.

In 2004, the IDA lent money to Glamis Gold Ltd., a Canadian-American corporation, to re-open the Marlin mine in the Department of San Marcos. According to local population, this mine was re-opened without adequate consultation. Additionally, disagreements over land acquisition and the failure of the company to address risks associated with the mine has led to opposition from local communities. This opposition has been met with threats, acts of intimidation, and attacks which have resulted in injuries and death.¹⁸⁴ In 2011, the UN Special Rapporteur on the Rights of Indigenous peoples stated that the presence of large scale mining

¹⁸³ International Finance Institution, "IFC in the Palm Oil Sector," http://www.ifc.org/wps/wcm/connect/industry_ext_content/ifc_external_corporate_site/agribusiness/resources/palmoil_landingpage (Accessed October 21, 2016); The World Bank, "World Bank Group Adopts new Approach for Investment in Palm Oil Sector," April 3, 2011. <http://www.worldbank.org/en/news/press-release/2011/04/03/world-bank-group-adopts-new-approach-investment-palm-oil-sector> (Accessed October 21, 2016).

¹⁸⁴ McGill Research Group, "Canadian Mining in Latin America: Marlin Mine, Guatemala," 2014. <http://micla.ca/conflicts/marlin-mine-2/>. (Accessed October 23, 2016).

has, “generated a highly unstable atmosphere of social conflict which is having a serious impact on the rights of the indigenous people and threatening the country’s governance and economic development.”¹⁸⁵ In 2013, the government declared a state of emergency in some areas affected by protests against mining, a measure which is normally used in times of war or when natural disasters occur.¹⁸⁶

The WB also continues to finance the sugar industry in Guatemala which, as previously discussed, continues to legally, but not legitimately, acquire vast amounts of land in Guatemala, undermining various rights and government obligations. In 2009 IDA financed another loan to increase the capacity at the Pantaleon sugar mill in Guatemala.¹⁸⁷

Conclusions

The initiative to survey and title land through the Land Regularization Program failed to achieve the majority of its objectives. Rather than meeting its purportedly self-evident goals (improving access to credit for land owners, reducing conflict, and increasing tenure security), this program, which was based on false assumptions and informed by a flawed understanding of the history of agrarian reform, has maintained the status quo. Indeed, the expected impact that land regularization would have on the poor was overestimated and the lack of land title proved to be less of a barrier to tenure security and poverty alleviation than predicted. In effect, the program benefited Guatemala’s elite and further marginalized and displaced Guatemala’s poor.

¹⁸⁵ Amnesty International, “Mining in Guatemala: Rights at Risk,” 2014: 7. <http://www.amnesty.ca/sites/amnesty/files/mining-in-guatemala-rights-at-risk-eng.pdf> (Accessed October 23, 2016).

¹⁸⁶ *Ibid.*, 3.

¹⁸⁷ Inter-American Investment Corporation, “GU3768A-01: Pantaleon Sugar Holdings.” <http://www.iic.org/en/projects/guatemala/gu3768a-01/pantaleon-sugar-holdings> (accessed June 6, 2016).

Through the mapping and titling of rural Guatemala, the regularization process has made previously inaccessible land visible and available for purchase and while leaving new holders of land title exposed and vulnerable. Further impacting the Land Regularization program was corruption, collusion, weak land governance, and the growing, global demand for ethanol. Because of these combined conditions, large amounts of land have been legally, but not legitimately, acquired, undermining local rights and obligations for short-term profits—a process experts call “land grabbing.” Those who have resisted this process have been repressed, criminalized, evicted and in some cases murdered, meaning that land regularization has neither been an especially peaceful process. Finally, because this recent accumulation has occurred legally, the program has ensured that future restitution and redistribution will be much more difficult.

CHAPTER 4: Conclusion

In addition to failing to reflect the needs of the Guatemala's rural poor, the MLAR, can also be considered a massive failure in its own terms. FONTIERRAS' attempt to improve the functioning of Guatemala's land market through its Access to Land and Land Regularization Programs has not produced the expected outcomes. Instead of facilitating secure access to land and poverty reduction, these programs have resulted in beneficiary indebtedness, increased poverty, and further displacement.

The objectives of FONTIERRA's Access to Land Program and Land Regularization Program primarily have not been met because the MLAR model incorrectly diagnosed land concentration as a market problem rather than the result of inequitable power relations. Land concentration in Guatemala did not occur because of a poorly functioning land market or a lack of land title; land became concentrated through conquest, force, coercion, and finally, through consenting to the MLAR.

Attempting to affect the concentration of land and wealth by extending the marketization of land and incorporating the poor into the market system has not produced a more equitable distribution of land, but has accentuated the inequality which has remained untouched by the reform. Instead of improving the lives of the poor, this approach has further exposed the poor and their land, making them more vulnerable to capital and exploitation. The market, in this way, has become an additional and legal instrument to serve those who welcomed the MLAR, supporting John H. Powelson and Richard Stock's nearly 30-year old conclusion that when

agrarian reforms are granted, they are implemented for the benefit of those who grant them.¹⁸⁸

The MLAR also failed because those who designed the model, reduced and simplified a very complicated, long-standing, and politically controversial problem. There is no single path to successful agrarian reform and a one-size-fits-all model, such as the MLAR, cannot be expected to solve such a complex problem. A successful agrarian reform must take different forms in different physical and human environments and correctly diagnose the root causes of the problem it is seeking to rectify.¹⁸⁹

The success of the MLAR was also shaped by the flawed histories and assumptions which guided its approach and objectives. Previous state-led reforms, contrary to the WB's narrative, were not always contentious, inefficient, and complete failures. Many examples, including Guatemala's state-led reform from 1952-1954 were highly redistributive. Establishing a model on such a flawed interpretation resulted in many false assumptions and poor model design. Limited access to the land market, lack of cadastral mapping and titles proved not to be as significant barriers to equitable land distribution, poverty alleviation, and development in this case, as broadly assumed by economists like de Soto and those who promoted the MLAR. And improving access to the land market, mapping the countryside, and providing title to land, in effect, had little impact on these desired goals.

In addition to design flaws, insufficient capacity and deficient implementation caused further problems for these two programs in the form of delays, inefficiencies, and corruption. Various contexts and conditions (high interest rates, increasing market liberalization and global

¹⁸⁸ Powelson, *The Peasant Betrayed*, xiii; John P. Powelson, "Land Tenure and Land Reform: Past and Present," *Land Use Policy* 4, no. 2 (1987): 120.

¹⁸⁹ Boyce et. al., "Land Reform and Sustainable Development," 13.

demand for ethanol, and the WB funding projects which directly impeded the MLAR) again presented additional obstacles for both the programs and its beneficiaries.

There is much scope for learning from Guatemala's experience with the MLAR. In many ways, this MLAR was inherently what it was promised not to be. First, it was, in fact, highly contentious. Many CSOs were unwilling to even recognise the socio-economic accord initially. Throughout the programs' implementation, the MLAR failed to resolve land conflicts sustainably and even triggered further land disputes and violent evictions. The reform was also in no way efficient as the entire Access to Land Program was suspended. Although significant growth was achieved through the MLAR, this growth occurred by capitalizing on the historical discrimination and social and political marginalization of Guatemala's indigenous peoples, ultimately undermining the Peace Accords and the principals which continue to guide FONTIERRAS.

Because the WB never required evidence to promote the MLAR initially, criticisms of the MLAR may continue to have little impact on the WB and elites which continue to welcome MLAR policies. Nevertheless, knowledge of the MLAR and its outcomes is growing and criticisms of the model are mounting and on many fronts. Failed experiences with the MLAR are being used to confront the WB and governments with more comprehensive demands, new paradigms, and alternative approaches to accessing and redistributing land. According to the International Peasant Movement, La Vía Campesina, "capital is appropriating our territories. Hence, we must respond by turning the struggle for land into a struggle for territory."¹⁹⁰ Due to increasingly open, global markets and the inadequacy of recent agrarian reforms, which rather

¹⁹⁰ "Land Reform and Food Sovereignty," La Vía Campesina June 14, 2016. <https://www.viacampesina.org/en/index.php/publications-mainmenu-30/2075-land-reform-and-food-sovereignty> (Accessed October 21, 2016).

than protecting small landowners have created more opportunities for land grabs, peasants are no longer seeking solely land and are instead putting forth proposals for “territory.” Territory is a more inclusive concept than land and encompasses the concepts of homeland, culture, religion, spiritual sites, ancestors, the natural environment, and other resources like water, forests, below ground minerals, etc.¹⁹¹ “Food Sovereignty,” La Vía Campesina asserts, is needed so that policies of agrarian reform and rural development might truly reduce poverty, protect the environment, and enhance broad based, inclusive economic development.¹⁹² According to their definition, food sovereignty is:

the recognition and enforcement of the right to food and the right to land; the right of each nation or people to define their own agricultural and food policies, respecting the right of indigenous peoples to their territories, the rights of traditional fisherfolk to fishing areas, etc.; a retreat from free trade policies, with a concurrent greater prioritization of production of food for local and national markets, and an end to dumping; genuine agrarian reform; and peasant based sustainable, or agroecological, agricultural practices.¹⁹³

In going forward, much can be done to improve the land situation in Guatemala. Existing government responsibilities and obligations present a large opportunity to address inequitable land distribution. First, several unaddressed commitments in the Peace Accords must be fulfilled including implementing a higher land tax on idle land and returning traditional land to indigenous groups. The GoG must also guarantee the rights of indigenous peoples as agreed to in Indigenous and Tribal Peoples Convention 169, which the GoG ratified in 1996. Additionally,

¹⁹¹ Sofia Monsalve, Peter Rosset, Saúl Vicente Vázquez, and Jill K. Carino, “Agrarian Reform in the Context of Food Sovereignty, the Right to Food and Cultural Diversity: ‘Land, Territory and Dignity,’” *International Conference on Agrarian Reform and Rural Development* (2006): 21.

¹⁹² *Ibid.*, 5.

¹⁹³ Monsalve, et al., “Agrarian Reform in the Context of Food Sovereignty,” 5.

IFIs like the WB must take responsibility for their role in funding projects like the Chixoy Dam and the Marlin Mine which have illegally and violently displaced indigenous peoples. The WB must also take adequate measures to ensure that they do not facilitate illegal displacement in the future. Meanwhile, foreign companies in Guatemala must be pushed to operate in a manner that does not interfere with the GoG's obligations and local rights. Currently, members of the indigenous Mayan Q'eqchi' population from El Estor are pursuing three related lawsuits in Canadian courts against the Canadian mining company HudBay Minerals over human rights abuses at HudBay's former Fenix mine in Guatemala. The crimes for which HudBay is being tried for include: gang-rape, murder, and forced evictions.¹⁹⁴ These trials are precedent-setting and are providing an important, if limited, avenue towards corporate accountability and the protection of rights in Guatemala.

Finally, despite all promises and perhaps some good intentions, Guatemala's MLAR, with its extension of the market and private property rights, has not benefitted the poor. Instead, the MLAR has increased the reach of Guatemala's elite, who continue to exercise their power and privilege, now even further, through a more expansive market. Peasants continue to be driven from the land, poverty is increasing, and land is quickly becoming re-concentrated in a way which will be difficult to reverse. Because of Guatemala's MLAR, inequitable land ownership remains an enormous problem.

¹⁹⁴ Klippensteins, Barristers & Solicitors, "Choc v. HudBay Minerals Inc. & Caal v. HudBay Minerals Inc.: Lawsuits against Canadian company HudBay Minerals Inc. over human rights abuse in Guatemala," 2016. <http://www.chocversushudbay.com/> (Accessed October 10, 2016).

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